

REQUEST FOR BOARD ACTION

HENDERSON COUNTY PLANNING BOARD

Meeting Date: January 15, 2009

Subject: Continue Discussion on Land Development Code Fall 2008 Text Amendments (TX-2008-05) – Text Amendments L, N & X.

Attachments: 1. Land Development Fall 2008 Text Amendments L and N (TX-2008-05)
2. Memo to Planning Board on Proposed Text Amendment X

SUMMARY OF REQUEST:

At its meeting on December 18, 2008, the Planning Board briefly discussed proposed text amendments L and N to the Land Development Code (LDC) (See Attachment 1). At its meeting on November 20, 2008, the Board made recommendations on all of the proposed amendments to the LDC with the exception of text amendments L and N. Text amendment L addresses the use of individual wells in major subdivisions located in the Rural Agricultural Area (RAA) and text amendment N proposes to prohibit the use of small accessory wastewater treatment plants in the R3 and R4 zoning districts. The Technical Review Committee (TRC) reviewed the proposed fall 2008 text amendments to the LDC (TX-2008-05) at its meeting on November 4, 2008 and voted unanimously (6-0) to send a favorable recommendation on all of the proposed text amendments including text amendments L and N.

The Board also discussed at its December meeting the possibility of adding an additional text amendment (Text Amendment X) to require wells and septic systems to be installed prior to the issuance of a building permit (See Attachment 2). The Planning Board asked Staff to research this issue and decided to continue its discussion on Text Amendment L and N and a possible Text Amendment X at its January meeting.

Staff will discuss each of these amendments in detail at the January meeting.

PLANNING BOARD ACTION REQUESTED:

Staff is requesting that the Planning Board review the attached proposed text amendments (Text Amendments L, N and X) and make a recommendation to the Board of Commissioners. The following motion has been provided if the Planning Board agrees with the proposed text amendments.

Suggested Motion:

I move that the Planning Board recommend that the Board of Commissioners approve proposed Text Amendments L, N and X to the Land Development Code (TX-2008-05).

Land Development Code Fall 2008 Text Amendments – TX-2008-05
(Text Amendments L & N)

LDC Text Amendment L:

Issue: To ensure that an adequate source of potable water is available before a subdivision is built in the RAA (Rural Agricultural Area), require major subdivisions to do one of the following: provide a public community well system where individual wells are not allowed, or provide proof that there is a sufficient water supply to support 60% of the proposed lots in the subdivision. This provision will encourage the use of community wells and will better address water quantity.

Recommendation for Text Amendment L and M: Modify §200A-81 (B) as follows.

§200A-81. Major Subdivisions

B. Water Supply System and Sewage Disposal System Required. Every *lot* within a *subdivision* shall be served by a *water supply system* and *sewage disposal system* that is adequate to accommodate the reasonable needs of the proposed *use* and comply with all applicable health regulations. The *applicant* must provide evidence that *water supply system* and/or *sewage disposal system* plans have received final approvals by the appropriate agency prior to final plat approval (except as noted in item B(1) below).

(1) Individual Water Supply and Sewer Systems (Well and Septic Tanks). For *subdivisions* in which the *water supply system* and/or *sewage disposal system* to be installed is an individual system for each *lot*, the installation of said systems will not be required prior to *final plat* approval.

Where a *subdivision* is located entirely or partially in those areas designated as Rural (RAA) in the *Comprehensive Plan*, the *applicant* shall adhere to one (1) of the following two (2) options:

- a. Provide a community well system (a type of *public water supply system*) that meets State standards for *public community water systems* (individual wells shall not be permitted in this situation). The location of each well and the waterlines shall be shown on the development plan. If the locations of the well(s) or waterlines change, the *applicant* shall submit a revised development plan. The distribution system (waterlines) is not required to be constructed and installed prior to beginning land disturbing/construction activity or any other improvements.
- b. The use of community wells is recommended, however, if individual wells are proposed, the *applicant* shall provide reasonable documentation demonstrating there is sufficient water supply to support 60 percent of the proposed *lots*. The location of each well shall be shown on the development plan.

The *applicant* shall provide documentation for either Option a or Option b prior to beginning any land disturbing/construction activity or any other improvements not associated with the installation of the well or wells.

LDC Text Amendment N:

Issue: Add a provision that small accessory wastewater treatment plants would not be permitted in the R3 and R4 zoning districts. The County Comprehensive Plan recommends that these types of uses should not be permitted in the RAA which is predominately made up of the R3 and R4 zoning districts.

Recommendation: Amend §200A-62 Table of Permitted and Special Uses.

§200A-62. Table of Permitted and Special Uses

| USE TYPE | GENERAL USE DISTRICT | | | | | | | | | | | |
|---|----------------------|----|------|----|----|----|----|----|----|----|---|------|
| | R1 | R2 | R2MH | R3 | R4 | OI | MU | LC | CC | RC | I | SR |
| 3. ACCESSORY STRUCTURES | | | | | | | | | | | | |
| Wastewater Treatment Plant, Small Accessory | P | P | P | P | P | P | P | P | P | P | P | 3.15 |

**HENDERSON COUNTY
Planning Department**

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MEMORANDUM

TO: Henderson County Planning Board

FROM: Autumn Radcliff, Senior Planner

CC: Anthony W. Starr, AICP, Planning Director

DATE: January 7, 2009

SUBJECT: Proposed Text Amendment X, Requiring private wells and septic systems to be installed prior to the issuance of a building permit.

At its December 18, 2008 meeting, the Planning Board discussed adding an amendment to the Land Development Code (LDC) that would require private well and septic systems to be installed before a building permit could be issued. This will verify that the proposed use will have water available and an approved septic system and will elevate possible issues for the property owner before any construction has commenced. The Planning Board asked Staff to research the issue and to continue its discussion at its January 15, 2009 meeting.

Based on Staff's review, the Henderson County Environmental Health Division has the option to require that on-site waste water systems be installed prior to the issuance of a building permit. Currently, the Environmental Health Division issues a well improvement permit that allows for a well to be drilled and for a building permit to be issued. There are two additional inspections that Environmental Health must conduct after the well has been drilled. The first inspection is a grout inspection to verify that the well has been grouted properly during the drilling process. The second inspection is a well completion inspection to verify that the well head and tags are checked. Environmental Health is also required by state law to sample the well within 30 days of its completion. The County has the ability to require at the time of the grout inspection that the applicant provided a gallon per minute (GPM) rate and well depth, and only after a grout inspection has been completed could a building permit be issued.

As per the Planning Boards request, Staff has proposed the following text amendment (Text Amendment X) to the LDC that would require private wells and on-site waste water or septic systems to be installed prior to the issuance of a building permit as a condition of the zoning permit approval. The proposed amendment would allow exceptions for special circumstance as determined by the Zoning Administrator. These special circumstances could be when a modular needs to be set on the foundation and the septic system could be damaged during the transfer of the home or structure. Below and highlighted in red is the recommended language for this text amendment.

Text Amendment X:

Recommendation for Text Amendment X: Modify §200A General Use District Requirements and §200A-329 Zoning Permits.

§200A General Use District Requirements

The General Use Districts established above shall comply with the general and specific requirements of this Chapter, and in particular shall comply with the following standards and requirements:

- A. **Principal Use.** See §200A-10 (Principal Use).
- B. **Density and Dimensional Requirements.** See §200A-27 through §200A-39 (Density and Dimensional Requirements).
- C. **Reduction of Front Yard Setbacks.** See §200A-268 (Exemptions and Modifications from Regulations) A (Reduction of Front Yard Setbacks).
- D. **Uses.** See §200A-62 (Table of Permitted and Special Uses).
- E. **Supplemental Use Requirements.** See §200A-63 (Supplemental Requirements to the Table of Permitted and Special Uses).
- F. **Accessory Uses and Structures.** See §200A-63 (Supplemental Requirements to the Table of Permitted and Special Uses), subsection 2 (*Accessory Uses*) and subsection 3 (*Accessory Structures*).
- G. **Subdivision Approval.** See Article III (Subdivision Regulations).
- H. **Traffic Impact Study and Emergency Services Impact Report.** See Article IV (Adequate Public Facilities Regulations).
- I. **Landscaping and Buffering.** See Article V (Landscape Design Standards).
- J. **Parking and Loading.** See Article VI (Off-Street Parking and Loading Standards).
- K. **Signage.** See Article VII (Sign Regulations).
- L. **Permitting Procedures.** See Article XI (Review Processes and Procedures).
- M. Well and Septic System Requirements.** See §200A-329 (Zoning Permits).

§200A-329. Zoning Permits

- A. Purpose. *Zoning Permits* are required for (1) the erection, movement, *addition* to or structural alteration of any *structure* and (2) the expansion of or change in any *use*.
- B. Permit Issuance. The *Zoning Administrator* shall issue permits. No *Zoning Permit* shall be issued until the appropriate *site plan* has been reviewed and approved by the appropriate staff or reviewing agency. All permits shall be issued in conformity with the provisions of this Chapter, except where the *Zoning Administrator* receives a written order from (1) the Zoning Board of Adjustment (*ZBA*) in the form of an interpretation involving error, *special use* or *variance*; or (2) the Board of Commissioners in the form of the issuance of approval for a vested right.
- C. Application.
 - (1) Pre-application Conference. None required.
 - (2) Application. Each application for a permit shall be filed on a form provided by the *Zoning Administrator*. Applications may be modified by the *Zoning Administrator* as necessary, who may require the *applicant* to supply additional information.
 - (3) Review Schedule. None established.
 - (4) Fees. Any review fee established by the Commissioners shall be submitted with the application.
- D. Staff Review. The *Zoning Administrator* shall process and review all applications for a permit. If the application is found to be incomplete, the *Zoning Administrator* shall notify the *applicant* of any deficiencies. The *Zoning Administrator*, for projects not involving some other form of review,

shall approve, approve conditionally or deny the approval of the application. Where the *Zoning Administrator* denies the permit, reasons for the denial shall be stated. A *zoning permit* must be issued prior to the issuance of a building permit, which shall comply with the *zoning permit* and all conditions of approval attached thereto.

- E. **Conditions.** Prior to the issuance of a building permit, the *applicant* shall receive approval from the Henderson County Environmental Health Division that the septic system and well have been installed and inspected. Developments that are proposing community wells, municipal or public water supply systems, or municipal, public, or community sewage disposal systems are not required to have final approval from the approving authority prior to the issuance of a building permit. The *Zoning Administrator* may waive this requirement for special circumstances at the request of the Environmental Health Division.
- F. **Permit Validity.** Upon the issuance of a permit, the *applicant* shall have six (6) months from the date of issuance thereon to obtain a building permit or begin substantial construction work on the project. Failure to obtain a building permit or make substantial construction progress within six (6) months shall render the permit void. The *Zoning Administrator* may grant a single extension of this time period of up to six (6) months upon submittal by the *applicant* of sufficient justification for the extension.