

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY BOARD OF COMMISSIONERS

**MEETING DATE:** November 20, 2019

**SUBJECT:** Public Hearing for Land Development Code (LDC) Text Amendments (TX-2019-01)

**PRESENTER:** Autumn Radcliff, Planning Director  
Matt Champion, Project Development Planner

**ATTACHMENTS:**

1. LDC Draft Subdivision Amendments A-F
2. LDC Draft Subdivision Review Processes and Procedures Amendment G
3. Certification of Public Notice
4. Resolution of Consistency with County Comprehensive Plan
5. PowerPoint

### **SUMMARY OF REQUEST:**

With the adoption of the Land Development Code (LDC) on September 19, 2007, the Board of Commissioners directed staff to prepare annual updates to the LDC to prevent it from becoming outdated. This annual review is intended to prevent the need for a large overhaul of the entire code in the future. Trends and new issues are regularly emerging that require periodic updates to LDC text.

The proposed subdivision text amendments include: aggregation, lot designs, conservation subdivisions, clarifications for all subdivision types, property addressing, and private road standard reductions. The second round of proposed amendments include subdivision review processes and procedures and reducing the requirements when submitting for subdivision approval.

The Henderson County Planning Board has been discussing the draft text amendments for several meetings and on October 24, 2019 voted to send forward a favorable recommendation on the attached draft LDC text amendments (TX-2019-01).

### **PUBLIC NOTICE:**

The required public notice of this hearing was published in the Hendersonville Lightning on November 6<sup>th</sup>, 2019 and November 13<sup>th</sup>, 2019 (See attachment 3, Certification of Notice of Public Hearing).

### **BOARD ACTION REQUESTED:**

State law and the LDC require the Board of Commissioners to hold a public hearing prior to acting on a text amendment and adopt a written statement of consistency with the County Comprehensive Plan

### **Suggested Motion:**

*I move that the Board adopt the attached resolution regarding the consistency with the CCP,  
and*

*I move that the Board adopt the proposed Land Development Code text amendments.*

## 2019 Annual LDC Text Amendments - Subdivision Regulations Approved by Planning Board at the October 24, 2019 Meeting

Recommended changes are highlighted in red.

### **Text Amendment A: Aggregation**

#### **§42-79. Aggregation**

Two or more developments shall be aggregated and treated as a single development under the Land Development Code when they are determined to be part of a unified plan of development and are physically proximate to one another. Each of the criteria listed below is indicative of a unified plan of development. Whenever one or more are found to exist, the Planning Board may determine that two or more projects are part of a unified plan of development:

- A. There is a reasonable closeness in time between the completion of some or all of one development and the submission of an application for authorization of other development which is indicative of a common developmental effort;
- B. A master plan or series of plans or drawings exists covering the development sought to be aggregated;
- C. There is a voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments sought to be aggregated;
- D. There is a common advertising scheme or promotional plan in effect for the developments sought to be aggregated.

## 2019 Annual LDC Text Amendments - Subdivision Regulations Approved by Planning Board at the October 24, 2019 Meeting

Recommended changes are highlighted in red.

### Text Amendment B: Lot Design

#### §42-83. Lot Designs

New subdivision *lots* shall:

- A. Abut on an approved *road* or driveway easement (See §42-104, Residential Private Road Standards by Road Classification);
- B. Be no narrower than 30 feet in width where abutting the *right-of-way* or for purposes of the driveway easement;
- C. Be calculated excluding **new or existing** *road right-of-way* to determine size;
- D. Be of a size, width, depth, shape and orientation reasonable for the type of development;
- E. Where possible, have side *lot* lines at right angles or radial to the *roads* faced; and
- ~~F. Not be designed as *flag lots*. except where approval may be obtained from the reviewing agency for unusual circumstances (including severe topographic conditions, the presence of *unique natural areas*, preservation of working agricultural lands, or other limiting site conditions).~~
- G. Provide the approved E911 identification.

### Text Amendment C: Conservation Subdivisions

#### §42-88. Conservation Subdivision Standards

Conservation subdivision standards shall apply to all subdivisions proposing 35 lots or more.

- A. *Open space* shall:
  - (1). Comprise a minimum of 25 percent of the project area. **Subdivision proposing 100 or more lots may not use the floodway area to determine the overall density calculation but may count the floodway area for open space requirements. Floodplain areas are allowed to be calculated for both density and open space requirements.**

**Text Amendment D: Clarifications to Subdivision Types**

**§42-93. Special Subdivisions**

Special subdivisions shall be permitted under the following conditions:

- A. For lots of record prior to September 19, 2007 where there is insufficient acreage to meet the density regulations of the zoning districts, up to five (5) lots may be created where each lot is at least one half (1/2) acre (21,780 square feet) in size.
- B. The special subdivision procedure may not be used in conjunction with an application for a minor subdivision or a major subdivision.

The special subdivision procedure does not apply to the following zoning districts: Estate Residential (R-40), Surface Water District (SW), and Waterfront Residential (WR).

**§42-94. Minor Subdivisions (Ten (10) or Fewer Lots)**

Minor subdivisions shall adhere to all applicable requirements of this Chapter. No more than ten (10) lots in a five (5) year time period shall be allowed unless the subdivision complies with the major subdivision standards.

**§42-95. Major Subdivisions (Eleven (11) or more Lots or Commercial, Office Institutional, or Industrial)**

- H. Street Tree Requirements. Street trees shall be required in accordance with Article V (Landscape Design Standards) Subpart C (Street Tree Requirements). Street trees are required to be installed prior to final plat approval.

**§42-100. Existing Private Roads**

Any portion of an existing private road: ~~(1)~~ located in an existing recorded private right-of-way and ~~(2)~~ surrounded by the tract to be subdivided shall be upgraded to meet the road standards of this Subpart C (Subdivision Road Standards Applicable to All Subdivision Types and Subtypes) in major subdivisions.

## **Text Amendment E: Road Names**

### **§42-103. Road Names**

Road names are required for all public and private roads (including alleys and *driveway easements*) that access more than two (2) lots. Proposed names for *roads* shall:

- A. Be pre-approved by Henderson County in accordance with Chapter ~~142~~ 41 of the Henderson County Code, Property Addressing.
- ~~B. Not duplicate or be phonetically similar to existing road names, irrespective of the use of the suffix (i.e., road, avenue, boulevard, drive, place, court etc.).~~
- ~~C. Not exceed 15 characters, including spaces (not including prefixes and suffixes).~~

A proposed *road* ~~obviously~~ in alignment with an existing named *road* shall bear the name of ~~the~~ existing *road*.

### **§42-104. Road Name Signs and Regulatory Signs**

*Road name signs* and *regulatory signs* (speed limit signs, stop signs, etc.) shall be provided in accordance with Chapter 142 of the Henderson County Code, *Property Addressing* and with applicable local, state and federal laws, rules and regulations. ~~*Road name signs and regulatory signs must be acquired prior to final plat approval.*~~

## **Text Amendment F: Road Standards**

### **§42-110. Additional Road Design Standards Applicable to all Road Classifications.**

- D. Dead Ends, Cul-de-sacs and Turnarounds. *Vehicle* turnaround areas shall be provided at the end of all dead-end *roads* (~~excluding private driveway easements~~) that exceed 300 feet.

### **§42-111. Private Road Standard Reductions**

- A. Right-of-way Width Reduction. Right-of-way width requirements may be reduced to 30 feet in width where no more than five (5) lots are proposed and it is unlikely (due to design, topographic conditions or existing development) that any road contained therein would be extended to serve more than five (5) lots.

~~*Right of way width reductions are also permitted where the development is a dwelling, multifamily, five (5) or more units, provided these modifications are approved by the reviewing agency with consideration to sound engineering, public safety concerns and community character.*~~

- ~~B. Travelway Width Reduction. Travelway width requirements for private subdivision limited local roads in special subdivisions may be reduced to nine (9) feet where an~~

~~existing road with a travelway width of at least nine (9) feet occurs. The *Subdivision Administrator* will permit the reduction only upon inspection for road stability and provided that all other *private subdivision limited local road* standards are met. Existing roads shall be improved to meet the *private subdivision limited local road* standards before a *final plat* can be approved.~~

- B. Centerline Curve Radius Reductions. Centerline curve radius reductions may be reduced to:
- (1) 80 feet where the existing cross slope on *private subdivision collector roads* is 15 percent or greater, or
  - (2) 60 feet where the existing cross slope on *private subdivision limited local residential subdivision roads* or *private subdivision local residential subdivision roads* is 15 percent or greater.

~~Centerline curve radius reductions are also permitted where the development is a *dwelling, multifamily, five (5) or more units*, provided these modifications are approved by the reviewing agency with consideration to sound engineering, public safety concerns and community character.~~

- C. Shoulder Width Reduction. Shoulder width shall be reduced for:
- (1) *Private subdivision local roads* and *private subdivision collector roads* to a minimum of two (2) feet in cases where the existing cross slope is 20 percent or greater; and
  - (2) *Private subdivision collector roads* to a minimum of four (4) feet in cases where the existing cross slope is greater than ten (10) but less than 20 percent or greater.
- D. Cut and Fill Slopes. Cut and fill slopes shall be reduced to 1:1 where the existing cross slope is 20 percent or greater. **Additional erosion control measures are required in areas where cut and fill slopes utilize this reduction. Enforced by the Erosion Control Administrator.**

**2019 Annual LDC Text Amendments – Subdivision Review Processes and  
Procedures: Amendment G  
Approved by Planning Board at the October 24, 2019 Meeting**

**Recommended changes are highlighted in red.**

**Text Amendment G:**

**§42-337. Review for Minor, **Special**, and Nonstandard Subdivisions**

B. Application.

1. Application. Each *applicant* shall submit an application to the *Subdivision Administrator*. Applications may be modified by the *Subdivision Administrator* as necessary, who may require the *applicant* to supply additional information. Development plans are required for *minor* or *phased minor subdivisions* where ~~six~~ **(6) up** to ten (10) *lots* and new *right-of-way* are proposed. Development plans must be submitted to the *Subdivision Administrator* pursuant to §42-112 (Minor Subdivisions). Where development plan review is not required the *applicant* shall submit a *final plat* in mylar form and a **blue line paper** copy of the *final plat* along with all application materials (see Article III (Subdivision Regulations)). The *final plat* must be prepared in conformance with the *final plat* requirements provided by the Planning Department, (§42-343 (Final Plat Review)) and provisions of this Chapter.

**§42-341. Master Plans**

- A. Plan Preparation. Master plans must be prepared in conformance with this subpart and master plan requirements provided by the Planning Department. A master plan is required during review of all *major subdivisions*. The *applicant* shall submit ~~four (4)~~ **two (2)** full-sized copies, ~~and~~ one (1) reduced-sized copy, **and a digital copy** of the master plan, at a scale appropriate to clearly depict the proposed project. Reduced size copies should be legible and reproducible. If a reduced size copy of the plan (no larger than 11 inches by 17 inches in size) cannot be provided, at least ~~30~~ **4** large copies shall be submitted in its place. The master plan may consist of multiple sheets, if needed. *Applicants* proposing single section or *phased subdivisions* may submit a combined master plan and development plan (“master/development plan”) that shall be prepared in conformance with this subpart and the requirements of a development plan provided by the Planning Department and §42-342 (Development Plans).

**§42-342. Development Plans**

- A. Plan Preparation. Development plans must be prepared in conformance with this subpart and development plan requirements provided by the Planning Department. Development plan(s) are required during review of all *major subdivisions*. The development plan may be submitted for the entire *subdivision* or any section thereof. The *applicant* shall submit ~~four (4)~~ **two (2)** full-sized copies, ~~and~~ one (1) reduced-sized copy, **and a digital copy** of the development plan, at a scale appropriate to clearly depict the proposed project. Reduced size copies should be legible and reproducible. If a reduced size copy of the plan (no larger than 11 inches by 17 inches in size) cannot be provided, at least ~~30~~ **4** large

copies shall be submitted in its place. The development plan may consist of multiple sheets, if needed.

### §42-343. Final Plat Review

#### A. Final Plat Review for Minor and Nonstandard Subdivisions.

- (3) Staff Review. If the *subdivision* complies with the standards set forth herein the *Subdivision Administrator* shall provide approval in writing on the face of the *final plat* and shall retain a ~~"blue-line"~~ signed copy for departmental records. Once the *plat* has been approved, the *final plat* must be recorded ~~in a timely manner~~ within twelve (12) months from *Subdivision Administrator* approval.

#### B. Final Plat Review for All Major Subdivisions.

- (3) Staff Review. The *Subdivision Administrator* shall review the *final plat* and determine its completeness, finding that the regulations of this Chapter that set forth specific standards have been met for *final plats*. The *Subdivision Administrator* shall review the *final plat* for conformance with all applicable standards and conformance to any associated master plans and development plans. The *final plat* may be approved administratively if the *plat* meets all requirements of the Chapter and satisfies all conditions imposed by the reviewing agency. Upon approval, and before any *lots* are transferred, the *applicant* shall record the *final plat* at the office of the Register of Deeds within twelve (12) months from *Subdivision Administrator* approval. Incidental changes to the *final plat*, which do not in any way affect the character of the development, may be submitted prior to, or after, recordation and may be approved for re-recordation by the *Subdivision Administrator*. No *lots* governed by this Chapter may be conveyed until a *final plat* is approved and recorded in the office of the Register of Deeds of Henderson County.



**Certification of Notice of Public Hearing**

In accordance with NCGS 153A-323 and 153A-343 the Planning Department certifies notices of the November 20th, 2019 hearing regarding the proposed Henderson County Land Development Code Text Amendments (TX-2019-01), were:

1. Submitted to the Hendersonville Lightning on October 30, 2019 to be published on November 6, 2019 and November 13, 2019 by Matt Champion;

The signatures herein below indicate that such notices were made as indicated herein above:

1. Matt Champion

STATE OF NC

COUNTY OF Henderson

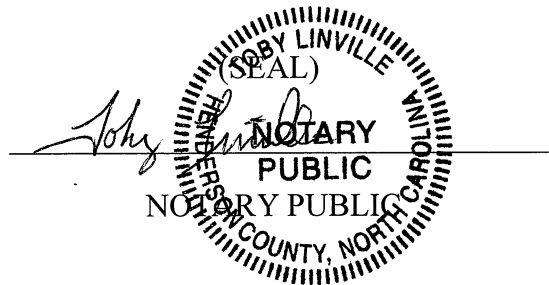
I, Toby Linville, a Notary Public, in and for the above County and State, do hereby certify that Matt Champion

personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this the 4 day of Nov, 2019.

My commission expires:

5/25/21





**RESOLUTION OF CONSISTENCY WITH THE COUNTY COMPREHENSIVE PLAN**

**WHEREAS**, pursuant to N.C. General Statute §153, Article 18, the Henderson County Board of Commissioners exercises regulations relating to development within the County’s jurisdiction; and

**WHEREAS**, the Henderson County Board of Commissioners (Board) adopted the Land Development Code (LDC) on September 19, 2007 and has amended the LDC to address new and changing issues;

**WHEREAS**, the Board desires to update and revise the regulations of the LDC; and

**WHEREAS**, the Planning Department and Planning Board provided recommendations regarding the proposed text amendments with case TX-2019-01; and

**WHEREAS**, pursuant to N.C. General Statute §153-323, the Planning Department provided the prescribed public notice and the Board held the required public hearing on November 20, 2019; and

**WHEREAS**, N.C. General Statute §153-341 requires the Board to adopt a statement of consistency with the County Comprehensive Plan (CCP); and

**NOW THEREFORE, BE IT RESOLVED** by the Henderson County Board of Commissioners as follows:

1. That the Board reviewed the proposed text amendment (TX-2019-01 – Land Development Code Amendments) and finds that it reasonable, in the public interest and it is consistent with the principles and goals of County Comprehensive Plan and the Growth Management Strategy located therein; and
2. That the Board determines that the proposed text amendment provides for the sound administration of the LDC while balancing property rights and promoting reasonable growth within the County; and
3. That this Resolution shall be retained in the Office of the Clerk to the Board of Commissioners.

**THIS** the 20<sup>th</sup> day of November, 2019.

**HENDERSON COUNTY BOARD OF COMMISSIONERS**

**BY:** \_\_\_\_\_  
**GRADY HAWKINS, Chairman**  
**Henderson County Board of Commissioners**

**ATTEST:**

\_\_\_\_\_  
**TERESA L. WILSON**  
**Clerk to the Board of Commissioners**

**[COUNTY SEAL]**