

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: December 4, 2023

SUBJECT: LDC Text Amendment – TX-2023-05, Communication Facilities

PRESENTER: Matt Champion, Zoning Administrator
Autumn Radcliff, Planning Director

ATTACHMENTS: 1. Draft Text Amendment
2. Fall Zone Letter Example
3. Certification of Public Notices
4. Resolution of Consistency
5. PowerPoint

SUMMARY OF REQUEST:

Planning staff received an application for a text amendment (#TX-2023-05) to add language that would allow engineers to submit specific letters detailing fall zones and therefore reducing the separation and easement acquisition requirements. The Land Development Code (LDC) permits Communication Facilities Category One (1) and Category Two (2) by right in all zoning districts.

The Technical Review Committee (TRC) reviewed the proposed text amendments during their November 7, 2023, meeting. The TRC moved to forward the proposed amendment to the Planning Board.

The Planning Board discussed the draft amendment at its November 16, 2023, meeting and voted unanimously to send forward a favorable recommendation on the draft text amendment (see attached).

PUBLIC NOTICE:

The required public notice of this hearing was published in the Hendersonville Lightning on November 22, 2023, and November 29, 2023 (see attached certification of public notice).

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.

Suggested Motion:

I move that the Board approve the proposed text amendment TX-2023-05, Communication Facilities with any changes as discussed, and find that these changes are consistent with the County Comprehensive Plan.

LDC Text Amendment (TX-2023-05)

Recommended changes are highlighted.

Communication Facilities Category One (1) or Two (2)

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Definition:

Fall Zone – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

§42-266. Category One (1) or Two (2) Communication Facility Permits (C. Application) (2. Application) (f. Easement Acquisition Documents)

- f. Easement Acquisition Documents. Statements of intent, submitted by the *applicant*, from adjacent property *owners* (where any portion of said property is within a distance of the tower height from the tower base) to grant an *easement* to the *applicant*. **Or the applicant can submit a fall zone letter, sealed by an engineer, identifying the towers specific fall radius. If applicants utilize the fall zone letter option, the applicant must also provide proof of liability insurance with a limit of liability of at least \$1 million by the owner of the Communication Facility and submit an as-built certification of the Communication Facility, showing that the Communication Facility was built in accord with the design as certified by the engineer, for permit closeout.**

SR 9.3. Communication Facilities (3. Communication Facility Specific Standards) (b. Category Two (2) (5. Separation from Existing Occupied Buildings)

5. Separation from Existing Occupied Buildings. *Communication towers* must be constructed a minimum distance equivalent to 110 percent of the height of the proposed *communication tower* from existing occupied *structures*. *Communication towers* unable to conform to *occupied building* separation requirements may submit affidavits of understanding from the *owners* of property and/or *structures* within the 110 percent height radius in place of conforming to the separation standards. Affidavits of understanding shall state that the property *owners* do not object to the construction of the *communication tower* as proposed in the application, and agree to hold the County harmless from any and all liability for the location and construction of the *communication*

tower as proposed in the application. Such affidavits should also site the specific plan or drawing reviewed by the property *owner*. Or the *applicant* can submit a *fall zone* letter, sealed by an engineer, identifying the towers specific fall radius. If *applicants* utilize the *fall zone letter* option, the *applicant* must also provide proof of liability insurance with a limit of liability of at least \$1 million by the owner of the Communication Facility and submit an as-built certification of the Communication Facility, showing that the Communication Facility was built in accord with the design as certified by the engineer, for permit closeout.

February 14, 2022

[REDACTED]

[REDACTED]

Alpharetta, GA 30004

RE: Proposed 150' Monopole for East Ridge, GA (Sabre Quote #22-4680-JDS)

[REDACTED]

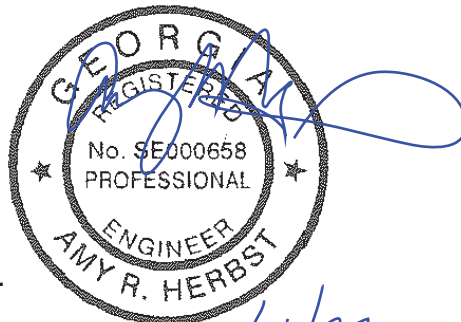
Upon receipt of order, we propose to design and supply a monopole and foundation for the above referenced site. The monopole and foundation will be designed for a basic wind speed of 105 mph without ice and 30 mph with 1" ice, Risk Category II, Exposure Category B and Topographic Category 1, in accordance with ANSI/TIA-222-H.

When designed according to this standard, the wind pressures and steel strength capacities include several safety factors. Therefore, it is highly unlikely that the monopole will fail structurally in a wind event where the design wind speed is exceeded within the range of the built-in safety factors.

Should the wind speed increase beyond the capacity of the built-in safety factors, to the point of failure of one or more structural elements, the most likely location of the failure would be within the monopole shaft, above the base plate. Assuming that the wind pressure profile is similar to that used to design the monopole, the monopole will buckle at the location of the highest combined stress ratio within the monopole shaft. This is likely to result in the portion of the monopole above leaning over and remaining in a permanently deformed condition. **Please note that this letter only applies to the above referenced monopole designed and manufactured by Sabre Towers & Poles.** This would effectively result in a fall radius less than or equal to 75 feet.

Sincerely,

Amy R. Herbst, P.E., S.E.
Senior Design Engineer



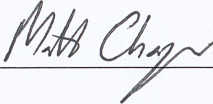
2/14/22

Certification of Notice of Public Hearing

In accordance with NCGS 160D-323 and 160D-343 the Planning Department certifies notices of the December 4, 2023, hearing regarding the proposed Henderson County Land Development Code Text Amendments (TX-2023-05), were:

- 1. Submitted to the Hendersonville Lightning on November 17, 2023 to be published on November 22, 2023 and November 29, 2023 by Matt Champion;

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

- 1. 

STATE OF North Carolina

COUNTY OF Henderson

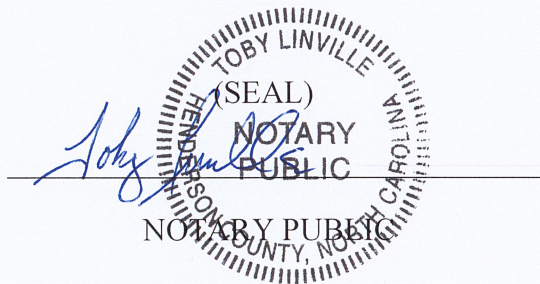
I, Toby Linville, a Notary Public, in and for the above County and State, do hereby certify that Matt Champion

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

WITNESS my hand and notarial seal, this the 20th day of November, 2023.

My commission expires:

6/29/26





RESOLUTION OF CONSISTENCY WITH THE COUNTY COMPREHENSIVE PLAN

WHEREAS, pursuant to N.C. General Statute §160D, Article 1, 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-2023-05; and

WHEREAS, pursuant to N.C. General Statute §160D-601, the Planning Department provided the prescribed public notice and the Board held the required public hearing on June 28, 2023; and

WHEREAS, N.C. General Statute §160D-605 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 amendments related to (#TX-2023-05 to the Land Development Code) 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 amendments provide 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 4th day of December, 2023.

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: _____
REBECCA MCCALL, Chairman
Henderson County Board of Commissioners

ATTEST:

DENISA LAUFFER
Clerk to the Board of Commissioners

[COUNTY SEAL]

TX-2023-05

Communication Facilities Category One (1) or Two (2)



December 4, 2023
Public Hearing

Text Amendment TX-2023-05, Communication Facilities Category One (1) or Two (2)

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Public Comment

