

# **REQUEST FOR BOARD ACTION**

## **HENDERSON COUNTY PLANNING BOARD**

**MEETING DATE:** December 19, 2019

**SUBJECT:** 2019 Annual Land Development Code Text Amendments (Conditional Rezonings, Public Notices and Comprehensive Plan References)

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

**ATTACHMENTS:** 1. Draft Amendments

### **SUMMARY OF REQUEST:**

The Planning Board has been in the process of review several amendments to the Land Development Code as part of the 2019 annual review. The attached amendments are related to conditional zoning districts, removing the mixed use district option, expanding the mailed notice for rezonings, and correcting the comprehensive plan reference.

### **BOARD ACTION:**

Recommendation by the Planning Board is required prior to the Board of Commissioners adopting any text amendments to the Land Development Code.

### **Suggested Motion:**

I move that the Planning Board forward the following text amendments as discussed to the Board of Commissioners for adoption and that these amendments are consistent with the County's Comprehensive Plan.

## 2019 Annual LDC Text Amendments – Conditional Rezoning, Public Notices and Comprehensive Plan References

Recommended changes are highlighted in red.

### Conditional Rezoning

**Summary:** The Board of Commissioners has received several recent conditional rezoning applications. Based on the recommendation of the County Attorney and to prevent potential confusion about this process, the proposed amendments will clarify that each approved conditional district will be a unique stand-alone zoning districts with a corresponding site plan and list of conditions. Below is a list of all related conditional rezoning amendments.

#### Text Amendment A: Remove Mixed Use District Option

Remove the mixed use district designation. This is a conditional rezoning and is approved under that process. (Remove Article II, Subpart C. Mixed Use District, remove the use from the Permitted Use Table, and remove all references to the mixed use district in the LDC)

#### Text Amendment B: Amend the Conditional Zoning District Option

##### **Article II, Subpart B. Conditional Zoning Districts** **§42-45. Conditional Zoning Districts**

Conditional Zoning Districts are created for the purpose of providing an optional rezoning choice where the *owner* of property proposes to rezone property and, in order to, among other reasons, carry out the purposes of the *Comprehensive Plan*, proposes to impose special limitations and conditions on the *use* of the property proposed for rezoning.

Conditional Zoning Districts are zoning districts in which the development and *use* of the property is subject to predetermined Chapter standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to each individual development project. ~~For each General Use Zoning District, there is a corresponding Conditional Zoning District (CD) which corresponds to each of the districts authorized by this Chapter as follows: R1 CD; R2 CD; R2R CD; R3 CD; R 4 CD; OI CD; LC CD; CC CD; RC CD; I CD; R 40 CD; WR CD; SR CD; and MU CD.~~

**A. Dimensional Requirements.** Each *use* proposed in a petition for a Conditional Zoning District shall, at a minimum, conform to the following dimensional requirements. In some cases, a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-63 (Supplemental Requirements).

- (1) Dimensional requirements for single and multifamily residential *uses* shall be the same as those found in the R1 District.

- (2) Residential *accessory structures* shall be located in *rear* and *side yards* and shall be *setback* ten (10) feet from any property line.
- (3) Dimensional requirements for non-residential *uses* shall be the same as those found in the CC District
- (4) Non-residential *accessory structures* shall be located in *rear* and *side yards* and shall be *setback* ten (10) feet from any property line.

#### **B. General Provisions.**

- (1) Site Plan. Major Site Plan required in accordance with §42-331 (Major Site Plan Review).
- (2) All CD districts shall adhere to a *site-specific development plan*.
- (3) Neighborhood Compatibility Meetings. A neighborhood compatibility meeting is required. See §42-372. Neighborhood Compatibility Meeting.

#### **§42-49. Effect of Approval**

If a petition for conditional zoning is approved, the development and *use* of the property shall be governed by the existing Chapter requirements applicable to the ~~district's category~~ **special requirements for the approved use or uses**, the approved *site plan* for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Official Zoning Map.

Only those *uses* and *structures* indicated in the approved petition and *site plan* shall be allowed on the subject property. A change of location of the *structures* may be authorized pursuant to §42-50 (Alterations to Approval). Changes to the *site plan* layout shall not increase the number of *structures*.

Following the approval of the petition for a Conditional Zoning District, the subject property shall be identified on the Official Zoning Map by the appropriate district designation. A conditional zoning shall be identified by **the letters "CD" then followed by the calendar year and application number** ~~the same designation as the underlying general district followed by the letter's "CD"~~ (for example "~~OL-CD~~ **CD-2019-01**"). **Approved conditions shall be recorded with the approved site plan in the registered of deeds office.**

**Public Notices**

**Text Amendment C: Amend the mailed notice requirements for map amendments**

**§42-346. Ordinance Amendments**

**C. Map Amendments**

(6) Public Notification. Public notification of the Planning Board meeting shall comply with the provisions outlined in §42-370 (Legislative Process Standards) B(5) (Posted Notice), for posted notices. **Mailed notification of the Planning Board meeting for zoning map amendments shall be sent to the *owner* of that parcel of land, and all parcels of land within four hundred (400) feet of any property line of the proposed development by first class mail to the address as shown on the County tax listing. Mailed notices must be deposited in the mail at least seven (7) days prior to the date of the meeting.** Public notification of the Commissioners public hearing shall comply with the provisions of NCGS §153A-323 and §153A-343, as amended, **and additional provisions outlined in (See §42-370 (Legislative Process Standards)).** Planning Staff shall be responsible for all necessary public notifications.

**Subpart H. Legislative and Quasi-Judicial Process Standards**

**§42-370. Legislative Process Standards**

**B. Map Amendments**

(3) Mailed Notice. In **addition to requirements found in accordance with** NCGS 153A-343, whenever there is a *zoning map amendment*, the *owner* of that parcel of land as shown on the County tax listing, and the *owners* of all parcels **within four hundred (400) feet of any property line of the proposed development** ~~of land abutting that parcel of land~~ as shown on the County tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such *owners* on the County tax abstracts. This notice must be deposited in the mail at least ten (10) but not more than 25 days prior to the date of the public hearing. The *person* or *persons* mailing such notices shall certify to the Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud. The first class mail notice requirement shall not be required if the *zoning map amendment* directly affects more than 50 properties, owned by a total of at least 50 different property *owners*, and the County elects to *use* the Expanded Published Notice (see subsection (4)).

**Comprehensive Plan References**

**Summary:** Correct all references in the Land Development Code to the 2020 Comprehensive Plan to state, “current comprehensive plan”.