

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY PLANNING BOARD

**MEETING DATE:** October 21, 2021

**SUBJECT:** Continued Discussion on LDC Text Amendments (TX-2021-06) Conditional Rezoning Limits in Residential and Non-Residential Zoning Districts

**PRESENTER:** Autumn Radcliff, Planning Director

**ATTACHMENTS:** 1. Draft Text Amendment  
2. Table of Permitted and Special Uses

### **SUMMARY OF REQUEST:**

During the July 15<sup>th</sup> and August 19<sup>th</sup> Planning Board meetings, the Board requested staff to draft a text amendment to address concerns with conditional rezonings applications and current allowed uses when requested within both residential and non-residential zoning districts. The Board discussed the issue at its September 16<sup>th</sup> meeting and clarified the text for application acceptance.

The Board voted to table the item until the October meeting to review the final language changes and to provide an opportunity to hear from the Board members that were absent. Attached is a draft text amendment and option for the Boards consideration and discussion.

### **BOARD ACTION:**

A recommendation by the Planning Board is required before the Board of Commissioners can consider any text amendment. A suggested motion is provided if the Board is prepared to make a recommendation.

#### **Suggested Motion:**

I move that the Planning Board recommend the draft text amendment (TX-2021-06) to the Land Development Code as discussed, and based on the recommendations of the Henderson County Comprehensive Plan.

## LDC Text Amendment – TX-2021-06

### Conditional Rezoning Limits in Residential and Non-Residential Zoning Districts

**Recommended changes are highlighted in red.**

**Summary:** During the July 15<sup>th</sup> and August 19<sup>th</sup> Planning Board meetings, the Board requested staff to draft a text amendment to address concerns with conditional rezonings applications and current allowed uses when requested within both residential and non-residential zoning districts. The Board discussed the issue at its September 16<sup>th</sup> meeting and clarified the text for application acceptance.

#### §42-45. Conditional Zoning Districts Established

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.

A. **Dimensional and Use Requirements.** Each *use* proposed in a petition for a Conditional Zoning District shall, at a minimum, conform to the following dimensional and use requirements. In some cases, a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-62 (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.~~

(2) If the subject area, or any portion thereof, is zoned residential (R1, R2, R2R, R3 and R4), then only those non-residential uses permitted by right or with a special use permit in the LC District shall be allowed. Any non-residential use not listed in the LC District shall not be allowed. Dimensional requirements for non-residential uses shall be the same as those found in the LC District.

(3) If the subject area, or any portion thereof, is not located in a residential zoning district, the dimensional requirements for non-residential uses shall be the same as those found in the CC District. Uses that are only permitted in the Industrial zoning district shall not be allowed as a conditional zoning district unless the Board of Commissioners accept such an application for consideration. As application acceptance is not the same as approval, the application will then

proceed through the required amendment review process. Application acceptance does not mean the application will be approved.

(4) Conditional zoning districts are not permitted in the R-40, WR, and SW Districts.

## B. General Provisions.

- (1) Site Plan. Major Site Plan required in accordance with §42-330 (Major Site Plan Review).
- (2) All CD districts shall adhere to a *site-specific vesting plan*.
- (3) Neighborhood Compatibility Meetings. A neighborhood compatibility meeting is required. See §42-372. Neighborhood Compatibility Meeting.

Certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Some land *uses* are of a nature or scale that may have significant impacts on both the immediately surrounding area and the entire community, which cannot be predetermined or controlled by general district standards. There are also circumstances in which a general use district designation allowing such a *use* by right would not be appropriate for a particular property though the *use* could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted *Comprehensive Plan*, and adopted district. The review process established in this section 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.

Where the *applicant* for rezoning desires property to be rezoned to such a district in such situations, the Conditional Zoning District is a means by which such special conditions can be imposed in the furtherance of the purpose of this Chapter and the recommendations of the *Comprehensive Plan*. The Conditional Zoning District classification will be considered for rezoning only with the consent of the property *owner*. If, for any reason, any condition imposed pursuant to these regulations is found to be illegal or invalid or if the *applicant* should fail to accept any condition, it is the intent of this Chapter that the authorization of such Conditional Zoning District shall be null and void and of no effect and that proceedings shall be instituted to rezone the property to its previous zoning classification.





Subpart D. Table of Permitted and Special Uses

USE TYPE	GENERAL USE DISTRICT										
	P=Permitted; S=Special Use Permit										
	R1	R2	R2R	R3	R4	OI	LC	CC	RC	I	SR
<i>Childcare Facility</i>	P	P	P	P	P	P	P	P	P	S	5.5
<i>Club/Lodge</i>	P	P	P	P	P	P	P	P	P	S	5.6
<i>College or University</i>						P		P	P		5.7
<i>Community Club</i>	P	P	P	P	P	P	P	P	P		5.8
<i>Correctional Facilities</i>										S	5.9
<i>Fire and Rescue Station</i>	P	P	P	P	P	P	P	P	P	P	5.10
<i>Funeral Home or Crematorium</i>						P	P	P	P		5.11
<i>Government Offices</i>						P	P	P	P	S	5.12
<i>Homeless Shelter</i>						P		S	P		5.13
<i>Hospital</i>						P		P	P		5.14
<i>Museum/Library/Archive</i>	S	S	S	S	S	P	P	P	P		5.15
<i>Place of Assembly, Large</i>						S	P	P	P	S	5.16
<i>Place of Assembly, Small</i>	S	S	S	S	S	P	P	P	P	S	5.17
<i>Police Station</i>	S	S	S	S	S	P	P	P	P	P	5.18
<i>Religious Institution</i>	P	P	P	P	P	P	P	P	P	S	5.19
<i>School (Home)</i>	P	P	P	P	P	P	P				-
<i>School (Public/Private/Charter)</i>	P	P	P	P	P	P	P	P	P		5.20
<i>Youth Center</i>	S	S	S	S	S	P	P	P	P		5.21
<b>6. BUSINESS, PROFESSIONAL, AND PERSONAL SERVICES</b>											
<i>Animal Shelter</i>							S	S	P		6.1
<i>Automobile and Equipment Service</i>			S	S	S		P	P	P	S	6.2
<i>Automotive Towing</i>									P	S	6.3
<i>Broadcasting and Communications Facilities</i>						P	P	P	P	S	6.4
<i>Car Wash</i>							P	P	P		6.5
<i>Exterminating and Pest Control Services</i>				S	S		P	P	P	S	6.6
<i>Kennel</i>		S	S	S	S		S	S	P		6.7
<i>Motel/Hotel</i>							S	P	P		6.8
<i>Office: Business, Professional and Public</i>			S	P	P	P	P	P	P		6.9
<i>School (Technical, Trade and Business)</i>						P	P	P	P	S	6.10
<i>Theater, Drive-In</i>								P	P		6.11
<i>Urgent Care Clinic</i>	S	S	S	S	S	P	P	P	P		6.12
<b>7. RETAIL TRADE</b>											
<i>Adult Book and Retail Merchandise Store</i>										S	7.1
<i>Adult Theatre and Live Entertainment</i>										S	7.2
<i>Cinema Complex</i>								P	P		7.3
<i>Convenience Store</i>						P	P	P	P	S	7.4
<i>Entertainment Complex</i>									P		7.5
<i>Flea Market</i>									P		7.6
<i>Fuel Oil Distribution and Sales</i>										S	7.7
<i>Landscaping Materials Sales and Storage</i>			S	S	S		S	P	P	S	7.8
<i>Manufactured/Mobile Home Sales</i>									P	S	7.9
<i>Motor Vehicle Sales or Leasing</i>							S	S	P		7.10







