

REQUEST FOR BOARD ACTION

HENDERSON COUNTY PLANNING BOARD

MEETING DATE: March 21, 2024

SUBJECT: LDC Text Amendments – TX-2024-01

PRESENTER: Janna Bianculli, Senior Planner
Autumn Radcliff, Planning Director

ATTACHMENTS: 1. Summary of the LDC Amendments
2. Draft LDC Text Amendments

SUMMARY OF REQUEST:

It is anticipated that the Board of Commissioners will adopt the Henderson County 2045 Comprehensive Plan. Staff has identified several amendments to the Land Development Code (LDC). The LDC currently reflects the 2020 Comprehensive Plan in many places since the documents are intertwined. For the County to provide development services to the community, basic amendments are required to reflect the newly adopted 2045 Comprehensive Plan. These amendments will convert language from the old comprehensive plan to corresponding terminology in the new 2045 Comprehensive Plan.

BOARD ACTION:

The Planning Board is requested to make a recommendation on the proposed amendments. The Board of Commissioners must hold a public hearing prior to adopting any amendments to the Land Development Code.

Suggested Motion: I move that the Planning Board send forward a favorable recommendation on the proposed text amendment TX-2024-01 and find that these changes are consistent with the County Comprehensive Plan.

LDC Text Amendments (TX-2024-01)

Recommended changes are highlighted.

Administrative Amendments to Reflect the 2045 Comprehensive Plan Terminology

Summary:

It is anticipated that the Board of Commissioners will adopt the Henderson County 2045 Comprehensive Plan. Staff has identified several amendments to the Land Development Code (LDC). The LDC currently reflects the 2020 Comprehensive Plan in many places since the documents are intertwined. For the County to provide development services to the community, basic amendments are required to reflect the newly adopted 2045 Comprehensive Plan.

These amendments will convert language from the old comprehensive plan to corresponding terminology in the new 2045 Comprehensive Plan. Amendments include removing references to old character areas, replacing Community Service Center with Neighborhood Anchor, and changing Urban Service Area to Utility Service Area. These amendments will essentially allow the County time to complete a full review and rewrite of the LDC and associated zoning map amendments.

Minor Change		Occurrences
A.	All mentions of "Urban Service Area (USA)" is amended to say "Utility Service Area (USA)"	8
B.	Removal of Community Plan references	12
C.	Removal of old character area references	2

Substantial Change		Occurrences
D.	All mentions of "Community Service Center" is amended to say "Neighborhood Anchor", where appropriate	1
E.	Amendment of review schedule for all comprehensive plans	1
F.	Removed requirement for reference to Comprehensive Plan when designing well systems for subdivisions	1

§42-27. Residential District One (R1)

- A. **Purpose.** The purpose of Residential District One (R1) is to foster orderly growth where the *principal use* of land is residential. The intent of this district is to allow for medium to high-density *residential development* consistent with the recommendations of the *Comprehensive Plan*. This general *use district* is typically meant to be utilized in areas designated as Urban **Utility Service Area** (USA) in the *Comprehensive Plan*.
- B. **Density and Dimensional Requirements.** Each *use* allowed in this district shall, at a minimum, conform to the following requirements (in the case of a nonresidential *use* the *residential density* requirements shall not apply). In some cases a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-62 (Supplemental Requirements).

Table 2.1. R1 Density and Dimensional Requirements			
(1) Residential Density (units/acre)		(2) Standard	4
		(3) Intermediate	6
		(4) Maximum	12
(5) Yard Setbacks (feet)	Front or Right-of-Way (ROW)	<i>Local</i>	15
		<i>Collector</i>	20
		<i>Thoroughfare</i>	35
		<i>Boulevard</i>	50
		<i>Expressway</i>	60
		<i>Freeway</i>	90
		<i>Side</i>	10
	<i>Rear</i>	10	
		(6) Maximum Height (feet)	40

(1) Residential density shall be calculated utilizing the entire acreage of a tract of land. Under this scenario, residential density shall be determined based on the following formula:

<p><i>Lot size</i> x allowable units per acre = permitted <i>dwelling units</i></p> <p>The following example assumes a 5 acre tract with an allowable density of 4 units/acre:</p> <p>5 acres x 4 units per acre = <u>20 permitted dwelling units</u></p>
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The maximum residential density for portions of the tract with a slope of 60 percent or greater (where such slope areas of the tract account for ten (10) percent or more of the tract) shall be one-half (½) the eligible density.

- (2) Standard residential density shall be applied:
 - a. On a lot existing at the time of the initial adoption of this Chapter, where there is not adequate area to comply with the applicable standard residential density requirement;
 - b. To single-family residential uses; and
 - c. To two family attached dwellings.

§42-28. Residential District Two (R2)

- A. **Purpose.** The purpose of Residential District Two (R2) is to foster orderly growth where the *principal use* of land is residential. The intent of this district is to allow for low to medium density *residential development* consistent with the recommendations of the *Comprehensive Plan*. It is also the intent of this district to allow for flexibility in the continuation of existing nonresidential *uses*. This general *use district* is typically meant to be utilized in areas designated as ~~Transitional (RTA)~~ **Utility Service Area (USA)** in the *Comprehensive Plan*.
- B. **Density and Dimensional Requirements.** Each *use* allowed in this district shall, at a minimum, conform to the following density and dimensional requirements (in the case of a nonresidential use the *residential density* requirements shall not apply). In some cases, a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-62 (Supplemental Requirements).

(1) Residential Density (units/acre)		(2) Standard	1
		(3) Maximum	2
(4) Yard Setbacks (feet)	Front or ROW	<i>Local</i>	15
		<i>Collector</i>	20
		<i>Thoroughfare</i>	35
		<i>Boulevard</i>	50
		<i>Expressway</i>	60
		<i>Freeway</i>	90
		<i>Side</i>	10
	<i>Rear</i>	10	
(5) Maximum Height (feet)			40

- (1) *Residential density* shall be calculated utilizing the entire acreage of a *tract* of land. Under this scenario, *residential density* shall be determined based on the following formula:

Lot size x allowable units per acre = permitted *dwelling units*

The following example assumes a 5 acre tract with an allowable density of 1 unit/acre:

5 acres x 1 unit per acre = **5 permitted dwelling units**

The maximum *residential density* for portions of the *tract* with a *slope* of 60 percent or greater (where such *slope* areas of the *tract* account for ten (10) percent or more of the *tract*) shall be one-half (½) the eligible density.

- (2) Standard *residential density* shall be applied:
 - a. On a *lot* existing at the time of the initial adoption of this Chapter, where there is not adequate area to comply with the applicable standard *residential density* requirement;
 - b. To single-family residential *uses*; and

§42-29. Residential District Two Rural (R2R)

- A. **Purpose.** The purpose of Residential District Two Rural (R2R) is to foster orderly growth where the *principal use* of land is residential. The intent of this district is to allow for low to medium density *residential development* and rural commercial and light industrial development consistent with the recommendations of the *Comprehensive Plan*. This general *use district* is typically meant to be utilized in **outside** areas designated as **Transitional (RTA) Utility Service Area (USA)** in the *Comprehensive Plan*.
- B. **Density and Dimensional Requirements.** Each *use* allowed in this district shall, at a minimum, conform to the following requirements (in the case of a nonresidential *use* the *residential density* requirements shall not apply). In some cases, a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-62 (Supplemental Requirements).

(1) Residential Density (units/acre)		(2) Standard	1
		(3) Maximum	2
(4) Yard Setbacks (feet)	Front or ROW	Local	15
		Collector	20
		Thoroughfare	35
		Boulevard	50
		Expressway	60
		Freeway	90
	Side	10	
	Rear	10	
(5) Maximum Height (feet)			40

- (1) *Residential density* shall be calculated utilizing the entire acreage of a *tract* of land. Under this scenario, *residential density* shall be determined based on the following formula:

<p><i>Lot size</i> x allowable units per acre = permitted <i>dwelling units</i></p> <p>The following example assumes a 5 acre tract with an allowable density of 1 unit/acre:</p> <p>5 acres x 1 unit per acre = <u>5 permitted dwelling units</u></p>

The maximum *residential density* for portions of the *tract* with a *slope* of 60 percent or greater (where such *slope* areas of the *tract* account for ten (10) percent or more of the *tract*) shall be one-half (½) the eligible density.

- (2) Standard *residential density* shall be applied:
- a. On a *lot* existing at the time of the initial adoption of this Chapter, where there is not adequate area to comply with the applicable standard *residential density* requirement;
 - b. To single-family residential *uses*; and
 - c. To two family attached dwellings.

§42-30. Residential District Three (R3)

- A. **Purpose.** The purpose of Residential District Three (R3) is to foster orderly growth where the *principal use* of land is low density residential. The intent of this district is to allow for *residential development* consistent with the recommendations of the *Comprehensive Plan*. This general *use district* is typically meant to be utilized in **outside** areas designated as ~~Rural (RAA)~~ **Utility Service Area (USA)** in the *Comprehensive Plan*.
- B. **Density and Dimensional Requirements.** Each *use* allowed in this district shall, at a minimum, conform to the following requirements (in the case of a nonresidential *use* the *residential density* requirements shall not apply). In some cases, a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-62 (Supplemental Requirements).

Table 2.4. R3 Density and Dimensional Requirements			
(1) <i>Residential Density</i> (units/acre)		0.66 (1 unit/1.5 acres)	
(2) <i>Yard Setbacks</i> (feet)	Front or ROW	<i>Local</i>	15
		<i>Collector</i>	20
		<i>Thoroughfare</i>	35
		<i>Boulevard</i>	50
		<i>Expressway</i>	60
		<i>Freeway</i>	90
		<i>Side</i>	15
	<i>Rear</i>	15	
Maximum Height (feet)		40	

- (1) *Residential density* shall be calculated utilizing the entire acreage of a *tract* of land. Under this scenario, *residential density* shall be determined based on the following formula:

Lot size x allowable units per acre = permitted *dwelling units*

The following example assumes a 5 acre tract with an allowable density of 0.66 units/acre:

5 acres x .66 units per acre = **3 permitted dwelling units**

The maximum *residential density* for portions of the *tract* with a *slope* of 60 percent or greater (where such *slope* areas of the *tract* account for ten (10) percent or more of the *tract*) shall be one-half (½) the eligible density.

Residential density shall be applied:

- a. On a *lot* existing at the time of the initial adoption of this Chapter, where there is not adequate area to comply with the applicable standard *residential density* requirement;
- b. To single-family residential *uses*; and
- c. To two family attached dwellings.

§42-31. Residential District Four (R4)

- A. **Purpose.** The purpose of Residential District Four (R4) is to foster orderly growth where the *principal use* of land is low density residential. The intent of this district is to allow for limited *residential development* consistent with the recommendations of the *Comprehensive Plan*. This general *use district* is typically meant to be utilized in **outside** areas designated as ~~Rural (RAA) or Conservation~~ **Utility Service Area (USA)** in the *Comprehensive Plan*. It is recognized that this district is to be used in areas less suitable for dense or moderately dense development **and is only zoned at the request of the property owner or appointed agent.**
- B. **Density and Dimensional Requirements.** Each *use* allowed in this district shall, at a minimum, conform to the following dimensional requirements (in the case of a nonresidential *use* the *residential density* dimensional requirements shall not apply). In some cases, a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-62 (Supplemental Requirements).

Table 2.5. R4 Density and Dimensional Requirements			
(1) <i>Residential Density</i> (units/acre)			0.20 (1 unit/5.0 acres)
(2) <i>Yard Setbacks</i> (feet)	Front or ROW	<i>Local</i>	15
		<i>Collector</i>	20
		<i>Thoroughfare</i>	35
		<i>Boulevard</i>	50
		<i>Expressway</i>	60
		<i>Freeway</i>	90
	<i>Side</i>	15	
	<i>Rear</i>	15	
Maximum Height (feet)			40

(1) *Residential density* shall be calculated utilizing the entire acreage of a *tract* of land. Under this scenario, *residential density* shall be determined based on the following formula:

Lot size x allowable units per acre = permitted *dwelling units*

The following example assumes a 5 acre tract with an allowable density of 0.20 units/acre:

5 acres x .20 units per acre = 1 **permitted dwelling unit**

The maximum *residential density* for portions of the *tract* with a *slope* of 60 percent or greater (where such *slope* areas of the *tract* account for ten (10) percent or more of the *tract*) shall be one-half (½) the eligible density.

Residential density shall be applied:

- a. On a *lot* existing at the time of the initial adoption of this Chapter, where there is not adequate area to comply with the applicable standard *residential density* requirement;

§42-32. Office & Institutional District (OI)

- A. **Purpose.** The purpose of the Office & Institutional District (OI) is to foster orderly growth where the *principal use* of land is a mixture of *office, institutional, and residential*. The intent of this district is to allow for office, institutional and *residential development consistent with the recommendations of the Comprehensive Plan*. ~~In accordance with the Comprehensive Plan, the district will allow for and provide office, institutional, and residential development~~ that: (1) is directed largely to ~~Community Service Centers~~ **Neighborhood Anchors** as defined in the *Comprehensive Plan*; (2) is compatible with adjacent development and the surrounding community; and (3) will minimize congestion and sprawl.
- B. **Density and Dimensional Requirements.** Each *use* allowed in this district shall at a minimum conform to the following requirements (in the case of a nonresidential *use* the *residential density* requirements shall not apply). In some cases, a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-62 (Supplemental Requirements).

Table 2.6. OI Density and Dimensional Requirements			
(1) Residential Density (units/acre)	(2) Standard	4	
	(3) Maximum	16	
Maximum Impervious Surface (%)		80	
(4) Yard Setbacks (feet)	Front or ROW	Local	20
		Collector	25
		Thoroughfare	35
		Boulevard	45
		Expressway	55
		Freeway	60
		Side	10
	Rear	10	
Maximum Height (feet)		50	

- (1) *Residential density* shall be calculated utilizing the entire acreage of a *tract* of land. Under this scenario, *residential density* shall be determined based on the following formula:

<p><i>Lot size x allowable units per acre = permitted dwelling units</i></p> <p><i>The following example assumes a 5 acre tract with an allowable density of 4 units/acre:</i></p> <p>5 acres x 4 units per acre = <u>20 permitted dwelling units</u></p>
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The maximum *residential density* for portions of the *tract* with a *slope* of 60 percent or greater (where such *slope* areas of the *tract* account for ten (10) percent or more of the *tract*) shall be one-half (½) the eligible density.

- (2) Standard *residential density* shall be applied:

§42-33. Local Commercial District (LC)

- A. Purpose.** The purpose of the Local Commercial District (LC) is to foster orderly growth where the *principal use* of land is commercial and residential. The intent of this district is to allow for *commercial development uses* consistent with the recommendations of the *Comprehensive Plan*. ~~In accordance with the *Comprehensive Plan*, the district will allow for and provide *commercial* and *residential development* that:~~ (1) includes a variety of retail sales and services, public and private administrations, offices and all other *uses* done primarily for sale or profit on a local or *neighborhood* scale; ~~(2) is directed largely to Community Service Centers as defined in the *Comprehensive Plan*;~~ (2) is compatible with adjacent development and the surrounding community; and ~~(4) (3) will minimize congestion and sprawl. This general use district is meant to be utilized in all service areas.~~
- B. Density and Dimensional Requirements.** Each *use* allowed in this district shall at a minimum conform to the following requirements (in the case of a nonresidential *use* the *residential density* requirements shall not apply). In some cases, a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-62 (Supplemental Requirements).

Table 2.7. LC Density and Dimensional Requirements			
(1) Residential Density (units/acre)	(2) Standard	4	
	(3) Maximum	16	
Maximum Impervious Surface (%)		80	
(4) Maximum Floor Area (sq ft)		30,000 or 10,000	
(5) Yard Setbacks (feet)	Front or ROW	Local	10
		Collector	10
		Thoroughfare	20
		Boulevard	30
		Expressway	40
		Freeway	45
	Side	10	
	Rear	10	
Maximum Height (feet)		40	

- (1) Residential density shall be calculated utilizing the entire acreage of a tract of land. Under this scenario, residential density shall be determined based on the following formula:

Lot size x allowable units per acre = permitted *dwelling units*

The following example assumes a 5 acre tract with an allowable density of 4 units/acre:

5 acres x 4 units per acre = **20 permitted dwelling units**

§42-34. Community Commercial District (CC)

- A. **Purpose.** The purpose of the Community Commercial District (CC) is to foster orderly growth where the *principal use* of land is commercial. The intent of this district is to allow for *commercial development* ~~consistent with the recommendations of the Comprehensive Plan. In accordance with the Comprehensive Plan, the district will allow for and provide commercial development~~ that: (1) includes a variety of retail sales and services, public and private administrations, offices and all other *uses* done primarily for sale or profit on the local and community level.; (2) ~~is directed largely to Community Service Centers as defined in the Comprehensive Plan;~~ (3) is compatible with adjacent development and the surrounding community; and (4) will minimize congestion and sprawl. This general *use district* is meant to be utilized in areas designated as Transitional (RTA) or Urban (USA) in the *Comprehensive Plan*.
- B. **Density and Dimensional Requirements.** Each *use* allowed in this district shall at a minimum conform to the following requirements (in the case of a nonresidential *use* the *residential density* requirements shall not apply). In some cases, a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-62 (Supplemental Requirements).

Table 2.8. CC Density and Dimensional Requirements			
(1) Residential Density (units/acre)		16	
Maximum Impervious Surface (%)		80	
(2) Maximum Floor Area (sq ft)		80,000 or 30,000	
Yard Setbacks (feet)	Front or ROW	Local	10
		Collector	10
		Thoroughfare	20
		Boulevard	30
		Expressway	40
		Freeway	45
	Side	10	
	Rear	10	
Maximum Height (feet)		50	

- (1) *Residential density* shall be calculated utilizing the entire acreage of a *tract* of land. Under this scenario, *residential density* shall be determined based on the following formula:

<p>$Lot\ size \times allowable\ units\ per\ acre = permitted\ dwelling\ units$</p> <p>The following example assumes a 5 acre tract with an allowable density of 16 units/acre:</p> <p>5 acres x 16 units per acre = <u>80 permitted dwelling units</u></p>
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The maximum *residential density* for portions of the *tract* with a *slope* of 60 percent or greater (where such *slope* areas of the *tract* account for ten (10) percent or more of the *tract*) shall be one-half (½) the eligible density.

§42-35. Regional Commercial District (RC)

- A. **Purpose.** The purpose of the Regional Commercial District (RC) is to foster orderly growth where the *principal use* of land is commercial. The intent of this district is to allow for *commercial development* consistent with the recommendations of the *Comprehensive Plan*. ~~In accordance with the *Comprehensive Plan*, the district will allow for and provide *commercial development* that:~~ (1) includes a variety of retail sales and services, public and private administrations, offices and all other *uses* done primarily for sale or profit on the local, community, and regional level.; (2) ~~is directed largely to Community Service Centers as defined in the *Comprehensive Plan*; (3) is compatible with adjacent development and the surrounding community; and (4) will minimize congestion and sprawl.~~ This general *use district* is meant to be utilized in areas designated as Urban in the Utility Service Area (USA) as defined in the *Comprehensive Plan*.
- B. **Density and Dimensional Requirements.** Each *use* allowed in this district shall at a minimum conform to the following requirements (in the case of a nonresidential *use* the *residential density* requirements shall not apply). In some cases, a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-62 (Supplemental Requirements).

Table 2.9. RC Density and Dimensional Requirements			
(1) Residential Density (units/acre)			16
Maximum Impervious Surface (%)			80
Maximum Floor Area (sq ft)			Unlimited
Yard Setbacks (feet)	Front or ROW	Local	10
		Collector	10
		Thoroughfare	20
		Boulevard	30
		Expressway	40
		Freeway	45
	Side	10	
	Rear	10	
Maximum Height (feet)			50

- (1) *Residential density* shall be calculated utilizing the entire acreage of a *tract* of land. Under this scenario, *residential density* shall be determined based on the following formula:

$$\text{Lot size} \times \text{allowable units per acre} = \text{permitted dwelling units}$$

The following example assumes a 5 acre tract with an allowable density of 16 units/acre:

$$5 \text{ acres} \times 16 \text{ units per acre} = \mathbf{80 \text{ permitted dwelling units}}$$

The maximum *residential density* for portions of the *tract* with a *slope* of 60 percent or greater (where such *slope* areas of the *tract* account for ten (10) percent or more of the *tract*) shall be one-half (½) the eligible density.

§42-36. Industrial District (I)

A. **Purpose.** The purpose of the Industrial District (I) is to foster orderly growth where the *principal use* of land is a mixture of industrial and heavy commercial. The intent of this district is to allow for *industrial* and heavy *commercial development* ~~consistent with the recommendations of the *Comprehensive Plan*. In accordance with the *Comprehensive Plan*,~~ the district will allow for and provide *industrial* and heavy *commercial development* that: (1) is compatible with adjacent development and the surrounding community; (2) will minimize conflict between land *uses*; and (3) is sensitive to its impact on surrounding land *uses* and the environment (natural and man-made). **This general use district is meant to be in the Utility Service Area (USA) as defined in the *Comprehensive Plan*.**

B.

C. **Density and Dimensional Requirements.** Each *use* allowed in this district shall at a minimum conform to the following requirements. In some cases, a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-62 (Supplemental Requirements).

Table 2.10. I Density and Dimensional Requirements			
<i>Maximum Impervious Surface (%)</i>		80	
<i>Maximum Floor Area (sq ft)</i>		Unlimited	
<i>Yard Setbacks (feet)</i>	<i>Front or ROW</i>	<i>Local</i>	20
		<i>Collector</i>	30
		<i>Thoroughfare</i>	40
		<i>Boulevard</i>	50
		<i>Expressway</i>	50
		<i>Freeway</i>	60
		<i>Side</i>	20
		<i>Rear</i>	20
<i>Maximum Height (feet)</i>		72	

(1) Accessory structures may be located in the side, rear or front yards and may be setback a minimum of five (5) feet from the side or rear property lines and ten (10) feet from the front or Right of Way (ROW).

§42-37. Estate Residential District (R-40)

- A. **Purpose.** The Estate Residential District (R-40) is established to maintain the zoning in place prior to the adoption of this Chapter 42. This district is established as a district in which the principal use of the land is for low-density residential use. This district is intended to ensure that *residential development* not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment. This district is also intended to be a quiet, low-density neighborhood consisting of single-family residences. The R-40 District shall not be extended from the locations designated on the Official Zoning Map, nor shall new R-40 District areas be designated except where initiated by the Board of Commissioners or *Planning Board*. The R-40 District may be altered or removed ~~with the completion of~~ *Community Plans*.
- B. **Dimensional Requirements.** Each *use* allowed in this district shall at a minimum conform to the following requirements. In some cases, a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-62 (Supplemental Requirements). The Conservation Subdivision option shall be available in the R-40 District. Minimum lot sizes shall not apply when using the Conservation Subdivision option and an average density of one (1) unit per 40,000 square feet shall be applied.

Table 2.11. R-40 Dimensional Requirements			
(1) Minimum <i>Lot Area</i> (sq ft)			40,000
Minimum <i>Lot Area</i> Per Dwelling (Family Unit) (sq ft)			40,000
(3) <i>Yard Setbacks</i> (feet)	<i>Front</i> or <i>ROW</i>	(2) Major <i>Roads</i>	75
		All Others	60
	<i>Side</i>		35
	<i>Rear</i>		35
Maximum Height (feet)			Unlimited

- (1) The minimum *lot area* for portions of the *tract* with a *slope* of 60 percent or greater (where such *slope* areas of the *tract* account for ten (10) percent or more of the *tract*) shall be twice the minimum *lot area* of the district.
- (2) Major *roads* shall include: Interstate 26, US Highway 64, US Highway 25, US Highway 176, NC Highway 280, NC Highway 191, Kanuga/Crab Creek Road (SR 1127), Clear Creek Road (SR 1503), Upward Road (SR 1722), and the Upward Road Connector (SR 1783).
- (3) *Yard setbacks* shall be measured from the centerline of *right-of-way*. Where the *road* is a major *road* and is more than two (2) lanes (including parking lanes), the *yard setback* requirements shall be measured and begin at a point on the pavement 12 feet from the edge of the paved *road* abutting the property in subject.
- C. **Permitted Uses.** Within the R-40 District, the following uses are permitted:
- (1) *Dwelling, single-family, and manufactured homes (multi-section)*, excluding *manufactured homes (singlewide)* and *mobile homes* (See SR 1.4 (*Dwelling, Manufactured/Mobile Home (multi-section/singlewide)*) and SR 1.6 (*Dwelling, Single Family Detached*)).

§42-38. Waterfront Residential District (WR)

- A. **Purpose.** The Waterfront Residential District (WR) is established to maintain the zoning in place prior to the adoption of this Chapter 42. This district is established for residential development on or adjacent to waterfront property, that which is navigable for small recreational-type boats and watercraft. The district is intended to maintain and promote low-density single-family development and is intended to provide protection of the existing waterfront character and environmental sensitivity, particularly the water quality and any adjacent wetlands. The WR District shall not be extended from the locations designated on the Official Zoning Map, nor shall new WR District areas be designated except where initiated by the Board of Commissioners or *Planning Board*. The WR District may be altered or removed ~~with the completion of *Community Plans*.~~
- B. **Dimensional Requirements.** Each *use* allowed in this district shall at a minimum conform to the following requirements. In some cases, a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-62 (Supplemental Requirements). The Conservation Subdivision option shall be available in the WR District. Minimum *lot* sizes shall not apply when using the Conservation Subdivision option and an average density of one (1) unit per 30,000 square feet shall be applied.

Table 2.12. WR Dimensional Requirements			
(1) Minimum <i>Lot</i> Area (sq ft)			30,000
Minimum <i>Lot</i> Area Per Dwelling (Family Unit) (sq ft)			30,000
(3) <i>Yard Setbacks</i> (feet)	<i>Front</i> or <i>ROW</i>	(2) Major <i>Roads</i>	60
		All Others	45
	<i>Side</i>		None
	<i>Rear</i>		25
	Waterfront		None
Maximum Height <i>Principal Structure</i> (feet)			35
Maximum Height <i>Accessory Structure</i> (feet)			15
Maximum Height Boat House (feet) (Measured from <i>Full Pond Elevation</i>)			25

- (1) The minimum *lot* area for portions of the *tract* with a *slope* of 60 percent or greater (where such *slope* areas of the *tract* account for ten (10) percent or more of the *tract*) shall be twice the minimum *lot* area of the district.
- (2) Major *roads* shall include: Interstate 26, US Highway 64, US Highway 25, US Highway 176, NC Highway 280, NC Highway 191, Kanuga/Crab Creek Road (SR 1127), Clear Creek Road (SR 1503), Upward Road (SR 1722), and the Upward Road Connector (SR 1783).
- (3) *Yard setbacks* shall be measured from the centerline of *right-of-way*. Where the *road* is a major *road* and more than two (2) lanes (including parking lanes), the *yard setback* requirements shall be measured and begin at a point on the pavement 12 feet from the edge of the paved *road* abutting the property in subject.

- C. **Permitted Uses.** Within the WR District, the following uses are permitted:

§42-39. Surface Water District (SW)

A. **Purpose.** The Surface Water District (SW) is established to maintain the zoning in place prior to the adoption of this Chapter 42. It is the intent of this district to protect surface waters for the enhancement of recreation, to promote water safety and maintain a proper ecologic/development balance. The SW District shall not be extended from the locations designated on the Official Zoning Map, nor shall new SW District areas be designated except where initiated by the Board of Commissioners or *Planning Board*. The SW District may be altered or removed ~~with the completion of *Community Plans*.~~

B. **Permitted Uses.** Within the SW District, the following uses are permitted:

(1) *Private boathouse, pier, dock, and bulkhead.*

- a. *Structures* may extend over the water for a distance of no more than 80 feet from the shore as measured from the *full pond elevation* (lakes) or *mean sea level* elevation (rivers).
- b. In no event shall a *structure*, when located in a cove or river, extend more than one-third (1/3) the width of the cove or river measured from the shore at the *full pond elevation* (lakes) or *mean sea level* elevation (rivers) at the point of the proposed construction to the nearest point on the opposite shore.
- c. The *structure* shall extend into the water so as to remain confined within a projection of the side *lot lines* of the *lot* on which the *pier* is accessed, maintaining the *side yard setback* requirements of the adjacent zoning district. A *structure* or other projection over the water may be established at each of the two (2) property lines on the shoreline at the *full pond elevation* (lakes) or *mean sea level* elevation (rivers). Each projection should be perpendicular to a line connecting two (2) points on the shoreline where a ten (10) foot radius from that property corner intersects the shoreline.
- d. Maximum building height for *private boathouses* shall be 25 feet measured from *full pond elevation* (lakes) or *mean sea level* elevation (rivers).

(2) Governmental recreational facilities, including, but not limited to: *piers, docks* and *bulkheads*, provided that the standards cited in subsection (1)a through (1)d are met.

(3) *Communications Facilities, Category 1* (See SR 9.3 (*Communication Facilities, Category 1*)).

(4) *Communication Facilities, Category 2* where such towers are limited to: (1) monopole towers, and (2) a height no greater than 100 feet (See also SR 9.3 (*Communication Facilities, Category 2*)).

(5) Navigational or Warning *Signs* (*signs*, other than navigational or warning *signs*, shall not be allowed on the surface of the lake or river).

§42-40. Reserved

§42-41. Reserved

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.

§42-46. Plans and Other Information to Accompany Petition

Property may be rezoned to a Conditional Zoning District only in response to, and consistent with, a petition submitted by the *owners* of all of the property to be included in the district. A petition for conditional zoning must include a *site plan*, drawn to scale, and supporting information and text that specifies the actual *use* or *uses* intended for the property and any rules, regulations and conditions that, in addition to all predetermined requirements, will govern the development and *use* of the property.

§42-47. Approval of Conditional Zoning District

Conditional Zoning District decisions are a legislative process subject to judicial review using the same procedures and standard of review as applicable to general *use district* zoning decisions. Conditional Zoning District decisions shall be made in consideration of identified relevant adopted land *use* plans for the area, including, but not limited to, the *Comprehensive Plan*, strategic plans, district plans, ~~community plans~~, *neighborhood* plans, corridor plans, and other land-use policy documents.

§42-48. Conditions to Approval of Petition

In approving a petition for the reclassification of property to a Conditional Zoning District, the Planning Board may recommend, and the Board of Commissioners may request that reasonable and appropriate conditions be attached to the approval of the petition. Conditions and site-specific standards shall be limited to those that address the conformance of the development and *use* of the site to County ordinances and any officially adopted *Comprehensive Plan* or other land *use* plan, that address the impacts reasonably expected to be generated by the development or *use* of the site. Any such conditions should relate to the impact of the proposed *use* on surrounding property, support facilities (such as parking areas and *driveways*), pedestrian and vehicular circulation systems, *screening* and buffering areas, timing of development, *road* and *right-of-way* improvements, water and sewer improvements, *stormwater* drainage, provision of *open space*, and other matters that the Commissioners may find appropriate, or the *applicant* may propose. Such conditions to approval of the petition may include dedication to the County, State or other public entity, as appropriate, of any *rights-of-way* or *easements* for *roads*, water, sewer, or other public utilities necessary to serve the proposed development. The *applicant* shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners. Only those conditions mutually approved by the Board of Commissioners and the *applicant* may be incorporated into the petition through written consent.

§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 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.

road is proposed as a future connection (however, stub *road* proposals do not entitle adjoining property owners access to the *subdivision*).

B. Soil Erosion and Sedimentation Control Plan. The applicant must provide written notice from:

- (1) The appropriate state and/or local agencies verifying an Erosion and Sedimentation Control Plan has been received, or
- (2) A professional land surveyor, engineer, landscape architect, architect, or professional planner certifying no plan is required.

Developers should not disturb and clear more land than needed for infrastructure and other *subdivision* related improvements.

C. Water Supply System and Sewage Disposal System Required. Every *lot* shall be served by a *water supply system* and *sewage disposal system* 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 *sewage disposal system* plans have received final approvals by the appropriate agency prior to *final plat* approval (except as noted in item C(1) below).

- (1) Individual Water Supply and Sewer Systems (Well and Septic Tanks). Where 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. **Community Well System.** 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. **Individual Wells (not recommended).** 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.~~

- (2) Municipal Water Supply Systems and Municipal and Approved Public or Community Sewage Disposal System Requirements. Where a *municipal water supply system* or *municipal sewage disposal system* is/are proposed, a letter from

the respective agency/agencies stating there is sufficient capacity to a make connection to the system(s), must accompany the *subdivision* application.

All *public water supply systems, municipal sewage disposal systems, and approved public or community sewage disposal systems* shall be installed and shall meet the requirements of the local or State authorities having jurisdiction thereof.

- (3) Required Connection to a Municipal Water Supply System and Municipal Sewage Disposal System. The approving authority may require a *subdivision* of 300 or more units connect to a *municipal water supply system* if located within two (2) miles of an existing *municipal water supply system*. If a *subdivision* is within 5,000 feet of an existing *municipal water supply system* and the distance is equal to or less than the product of 100 feet multiplied by the number of proposed *lots*; the *subdivision* shall be required to connect to the municipal water supply system.

The Approving Authority may require a *subdivision* of 300 or more units connect to a *municipal sewage disposal system* if the *subdivision* is located within one (1) mile of an existing *municipal sewage disposal system*. If a *subdivision* is within 2,500 feet of an existing *municipal sewage disposal system* and the distance is equal to or less than the product of 50 feet multiplied by the number of proposed *lots*, the *subdivision* shall be required to connect to the *municipal sewage disposal system*.

~~No *subdivision* located within those areas designated as Rural (RAA) in the Comprehensive Plan, shall be required by the approving authority to connect to a *municipal water supply system* or *municipal sewage disposal system*.~~

Required connects may be provided exception on the basis of terrain, availability of acquiring *easements*, denial of allocation by the public utility, insufficient capacity of the municipal system or other circumstances unusual or unique to the site. Requests for exceptions must be made, in writing, to the *Subdivision Administrator* who may require that such requests be supported by a professional engineer's review of the *subdivision* plans and planned route of the utility extension. If the *Subdivision Administrator* determines that it would not be economically feasible for a *subdivision* to be connected to a *municipal water supply system* or *municipal sewage disposal system*, another system may be used, subject to approval by the appropriate agencies.

D. Fire Protection Requirements. Either:

- (1) Install a minimum of one (1) hydrant per 1000 feet of linear *road* distance (if served by a *public water supply system* who may impose more stringent *fire protection* requirements where necessary): or
- (2) Install a dry fire hydrant system (the type and location of which is to be determined by the County Fire Marshal) and all-weather access *road* for fire-fighting equipment to a permanent surface water supply (minimum 100,000 gallon storage in a 50 year drought).
- (3) If the *subdivision* is neither served by a *public water supply system* nor has or is adjacent to an adequate permanent surface water supply, it shall be thoroughly

- 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.
- I. Subdivision Setback and Buffering. When a *tract* to be *subdivided* is ~~located outside a *Comprehensive Plan* designated Community Service Center Node~~ and within a residential zoning district, the following shall be required:
 - (1) A 50 foot *structure setback* from any *external road* which is not classified as a *local road*, with the understanding that *lots* may be created which contain all or portions of the *setback*.
 - (2) Installation of a B2 *buffer* (see Article V (Landscape Design Standards) Subpart A (Buffer Requirements)) within the required setback where the *tract* is located along a: *collector road, thoroughfare, boulevard, expressway* or *freeway*. The *applicant* should, where possible, maintain existing stands of trees in accordance with §42-184 (Credits for Preserving Existing Trees) to meet this standard.
- J. Air Quality. As required by NCGS Chapter 143, Article 21, all *subdivisions* shall show proof of compliance, if applicable, with air quality guidelines established by the Division of Environmental Management and NCDENR.

§42-96. Affordable Housing Subdivisions (Reserved)

Subpart D. Subdivision Road Standards Applicable to All Subdivision Types and Subtypes

§42-97. Road Disclosure

North Carolina General Statute (NCGS) §136-102.6 requires a developer disclose to each buyer of property the following:

- A. The ownership (public or private) of the *road* serving the *lot*,
- B. How the *road* will be maintained, and
- C. Who shall be responsible for such maintenance.

The law further requires certain *road* maintenance agreements be executed.

§42-98. Right-of-Way

Right-of-way standards apply within the property being developed. *Rights-of-way* shall be capable of supporting a *road* by meeting the minimum width specified by this Chapter (See Table 3.3). Any portion of an existing recorded *right-of-way* which does not meet minimum width requirements of this Chapter shall be upgraded to:

- (1) Meet the full *right-of-way* requirement when the right-of-way is surrounded by or abutting the tract; or

Subpart D. Off-Premise Sign Standards

§42-222. General

The *sign* standards of this subpart identify districts in which *outdoor advertising signs* are permitted and provide requirements and standards therefore. The following standards shall be in effect to provide appropriate outdoor advertising signage (except for those *signs* which are exempt or prohibited by this Article), and compliance therewith is required for the erection of a new *outdoor advertising sign*.

§42-223. Commercial and Industrial Districts, Urban Service Area

Outdoor advertising signs are permitted only in commercial and industrial districts where they are located in the Urban Utility Service Area (USA) as identified by the *Comprehensive Plan*. *Outdoor advertising signs* shall be classified based on size and include: *Outdoor Advertising Signs* Type A, B and C (see Table 7.1).

Table 7.1. Outdoor Advertising Sign Requirements				
<i>Outdoor Advertising Sign</i>	Square Feet Permitted	Maximum Height (ft.)²	Minimum Setback (ft.)³	Spacing (linear ft.)
Type A	0 to 72	25	10	1,000
Type B	>72-300	35	20	1,000
Type C	>300-380 ¹	35	20	1,000

1 Signs greater than 380 square feet are considered *billboards* and are not permitted in the County.
 2 Maximum height shall be measured from the existing *road* grade to the uppermost point on the *sign structure*.
 3 Minimum *setback* shall be measured horizontally from the adjacent edge of *right-of-way* to the nearest edge of the *sign structure*, provided that no part of the *sign* or *sign structure* shall encroach upon a public *right-of-way*. Where property abuts more than one (1) *road*, *signs* shall be set back an equivalent distance from each *road* no less than the minimum *setback* required.

Outdoor advertising signs shall be spaced so that such *outdoor advertising sign* (or its *structure*) is placed no closer to the next *outdoor advertising sign* (or its *structure*) or any existing adjacent residence than the minimum spacing distance required (see Table 7.1). Spacing shall apply to *outdoor advertising signs* located on either side of a *road*. The minimum distance between *signs* or between a *sign* and a residence shall be measured horizontally between the nearest points on either *structure*. If, because of terrain, vegetation or practical difficulties, a point-to-point accurate measurement cannot be obtained, the *Zoning Administrator* may extend any point of measurement to a logical corresponding location and measure from this point. Using the extended measuring method a variation of five (5) percent is acceptable for the purpose of this Article.

The minimum distance between a *sign structure* and a residence shall not be less than 1,000 feet, except:

- A. Where the adjacent residence is a *nonconforming use*;
- B. Where the *sign* was erected after the original effective date of this Article (May 21, 1986, as amended) and predates a residence, the *sign* shall not be nonconforming because of distance from the residence;
- C. Where the *sign* was erected prior to the effective date of this Article (May 21, 1986 as amended) and duly registered, the *sign* shall not be nonconforming because of distance from another *sign* or a residence; or

- (1) Approval Authority. *Subdivision Administrator*.
- (2) Purpose. A *final plat* must be prepared and approved pursuant to this subpart and *final plat* requirements provided by the Planning Department, whenever a *subdivision* of land occurs.
- (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 signed copy for departmental records. Once the *plat* has been approved, the *final plat* must be recorded within twelve (12) months from *Subdivision Administrator* approval.

B. Final Plat Review for All Major Subdivisions.

- (1) Approval Authority. *Subdivision Administrator*.
- (2) Purpose. A *final plat* must be prepared and approved pursuant to this subpart and *final plat* requirements provided by the Planning Department, whenever a *subdivision* of land occurs.
- (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.

Subpart D. Amendment Processes

§42-343. General

Amendment requests/applications may run concurrently with permit applications, *site plan* review or other applications for approvals required for the particular development. Amendments to the *Comprehensive Plan* and this Chapter shall adhere to the applicable review and approval process as outlined in this Article.

§42-344. Comprehensive Plan Amendments

- A. Purpose. The Comprehensive Plan Amendment process is designed to allow for: (1) regularly scheduled amendment evaluation; (2) consistency in how amendments are handled; (3) the consideration of the current plan and the proposed amendment to the plan concurrently, with an evaluation of the consequences of each; (4) the consideration

of land *use* changes in a countywide context by simultaneous amendment review; (5) the separation of land *use* issues from specific zoning issues; (6) thorough staff and board analysis and evaluation; and (7) meaningful public input. All actions taken to amend, supplement, change, or repeal the *Comprehensive Plan* shall follow the appropriate process as outlined below.

B. Administrative Amendments.

- (1) Approval Authority. Board of Commissioners.
- (2) Initiation. The Commissioners, County Manager, Planning Board and Planning Staff may submit *administrative amendments* to the *Planning Director*.
- (3) Staff Review. The *Planning Director* drafts submitted amendments and provides them to the County Manager for review, consideration, and action by the Commissioners.
- (4) Review Schedule. As needed.
- (5) Public Hearing. See 42-370 (C).
- (6) Public Notification. See 42-370 (C).
- (7) Amendment Validity. The amendment is effective immediately following the decision of the Commissioners.

C. Substantive Amendments.

- (1) Approval Authority. Board of Commissioners
- (2) Initiation. The Commissioners, County Manager, Planning Board and *Planning Director* may initiate *substantive amendments*.
- (3) Review Schedule. Amendments shall be considered **when initiated and in concurrence with rezoning applications. Other amendments annually, and** shall be reviewed based on the following:
 - a. ~~Interim Review, Community Plan Begun, not Yet Adopted.~~ Where the site of a proposed rezoning or *Special Use Permit* request is located in the area under study, the Planning Department will not initiate consideration of whether the site's current formally adopted land *use* classification should be changed to allow the proposed development, but encourage the landowner to participate in the development of the applicable *Community Plan*. If the landowner continues with the rezoning or *Special Use Permit* request, review of *Comprehensive Plan* consistency will be based on the site's current or assumed classification (until the *Community Plan* is adopted).
 - b. ~~Interim Review, Community Plan not Yet Begun.~~ Where a proposed rezoning or *Special Use Permit* request is located in the area scheduled for study, the Planning Department will initiate an ad hoc consideration of whether the site's current formally adopted land *use* classification should be changed. This process shall occur concurrently with the review process of the proposed rezoning or *Special Use Permit* request.

- ~~e. Annual Review. The County will review amendment requests as submitted in January. Planning Staff assesses suggested revisions within the context of the plan as a whole, proposes plan amendments deemed appropriate to address them, and submits the proposed amendments to the Planning Board for review and recommendation to the Commissioners. The Commissioners decide whether to adopt the proposed amendments.~~
- ~~d.~~ a. Five-Year Review. The *Comprehensive Plan* is subject to a review every five (5) years with the first review scheduled after the last *Community Plan* is complete. Planning Staff prepares draft amendments and submits them to the Planning Board for initial review. Planning Staff distributes copies of the draft amendments widely, invites public comment, addresses received public comments and submits amendments as revised to the Planning Board for review and recommendation to the Commissioners. The Commissioners review and decide whether to adopt the amendments. The Commissioners may hold a public hearing or public input session. If the Commissioners direct that further modifications to the proposed amendments be made, and such modifications are deemed by the Commissioners to be significant, the modified proposal shall be resubmitted to the Planning Board for further review and recommendation before the Commissioners take action.

(4) Public Hearing. See 42-370 (C).

(5) Public Notification. See 42-370 (C).

(6) Amendment Validity. The amendment is effective immediately following the decision of the Commissioners.

§42-345. Ordinance Amendments

A. Purpose. The regulations, restrictions and boundaries set forth in this Chapter may from time to time be amended, supplemented, changed or repealed by the Board of Commissioners. Prior to final action by the Commissioners under this Chapter, the Planning Board shall review the amendment and offer any comments or recommendations as appropriate. All actions to amend, supplement, change or repeal this Chapter shall follow the appropriate process as outlined below.

B. Text Amendments.

(1) Initiation. The Commissioners, Planning Board, Zoning Board of Adjustment (*ZBA*), Water Quality Board and Flood Damage Prevention Board may initiate amendments to the text of this Chapter through adopted motion and submittal to the *Planning Director*. The County Manager, *Zoning Administrator*, *Planning Director*, or an affected *owner* of property in Henderson County may initiate an amendment to the text of this Chapter.

(2) Application. Each *applicant* shall submit a copy of the proposed amendment which explains the purpose for the amendment to the *Planning Director*.

(3) Staff Review. Planning Staff shall: (1) process and review the amendment request, (2) present the application to the Technical Review Committee (*TRC*) for

political boundaries, geographical features or property lines); and where an *applicant* chooses to appoint an agent to speak on their behalf, (6) an agent form. Planning Staff may modify applications as necessary. Incomplete applications must be resubmitted on or before the first business day of the month or will not be processed until the proceeding month.

- c. Review Schedule. Applications for amendments shall have a 45 day processing period for review by Planning Staff before the first consideration by the Planning Board. Applications involving more than one (1) parcel not under common ownership by the *applicant* shall be forwarded to the Planning Board at its first regularly scheduled monthly meeting. (The Planning Board will review the application and determine if it should proceed or, due to the size of the area, number of parcels or number of property *owners*, if the scope of the application will require a *Small Area Zoning Study*. If the Planning Board agrees that the application calls for a *Small Area Zoning Study*, then the application will be tabled and the request is forwarded to the Commissioners for direction on how to proceed with the amendment application).
- d. Withdrawal of Application. This includes applications for the same requested zoning district or for the same use or substantial similar use under a conditional zoning request.
 - A. 1st Withdrawal. Each application for an amendment withdrawn by the *applicant* after the first newspaper notice appears, shall not reapply for a *map amendment* within the following six (6) months.
 - B. 2nd Withdrawal. Each application for an amendment withdrawn by the applicant after the first newspaper notice appears, shall not reapply for a *map amendment* within the following eighteen (18) months.
- e. Application Resubmittal.
 - A. Resubmittal of Any Application. The Planning Board and the Commissioners will not consider an application by a property *owner* or *owner's* agent, that is for the same requested zoning district or for the same use under a conditional zoning request when, within the previous 12 months, the *map amendment* request was denied by the Commissioners.
 - B. Resubmittal of Application After ~~Completion of a Small Area/Community Plan~~ **County Initiated Rezoning/Small Area Zoning Study**. Applications for *map amendments* located in an area that is currently undergoing or (within the previous 12 months) has completed a ~~Small Area/Community Plan~~ **County Initiated Rezoning or Small Area Zoning Study**, shall not be considered by the Planning Board or the Commissioners unless the *Planning Director* initiates such application.

design shall be compatible with the setting in which the communication facility is placed, in order to camouflage/conceal the presence of the facility and in order for the facility be considered a "stealth" design.

Communication Facility Height. The vertical distance measured from the facility base to the highest point of the facility, including any *antenna*, lighting or other equipment affixed thereto.

Communication Facility Permit. The permit issued by the *Communication Facilities Administrator*, as designated by this Chapter, to an *applicant* to construct a *communication tower*, co-locate an *antenna* on an existing tower, locate an *antenna* on an *alternative structure* or replace an existing tower.

Communication Facility Registration Number. A number issued by the *Communication Facilities Administrator* (upon the issuance of a *communication facility permit*) which is used to reference individual communication facility projects. A communication facility registration number corresponds to the facility permit application number issued by the *Communication Facilities Administrator*.

Communication Tower. A tower, pole or similar *structure*, used to support one or more *antennas*, including self-supporting lattice towers, guyed towers or monopole towers. The term includes radio and television transmission towers, personal communications service (PCS) towers, microwave towers, common-carrier towers, cellular telephone towers and *alternative structures*.

Communication Tower Base. The foundation, usually concrete, on which the *communication tower* and other support equipment are situated. For measurement calculations, the tower base is that point on the foundation reached by dropping a vertical line through the geometric center of the tower

Communication Tower Site. The land area which currently or will in the future contain a tower, support *structures* and other related *structures* and improvements. A communication tower site may consist of a parcel of record or a deeded *easement*.

Community Club. A *structure* and its related facilities, owned or operated by an educational, nonprofit organization whose members typically reside inside boundaries that are established by the community club, and whose purposes are: to provide a framework whereby community members can work together to supplement or expand the goals that the community wants to accomplish; and to provide for the social, recreational, educational, cultural and/or economic improvement of the community.

~~**Community Plan.** A plan that covers specific subareas of the County. These plans provide basic information in the natural features, resources and physical constraints that affect development of the planning area. They also specify detailed land *use* designation used to review specific development proposal and to plan services and facilities.~~

Completion of Construction or Development (Soil Erosion and Sedimentation Control). No further *land-disturbing activity* is required on a phase of a project except that which is necessary for establishing a permanent *ground cover*.

Comprehensive Plan. The official public planning document adopted by the Board of Commissioners as the official guide for the development and redevelopment of the County.