

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY PLANNING BOARD

**MEETING DATE:** September 21, 2023

**SUBJECT:** LDC Text Amendment – TX-2023-04, Flood Hazard Amendment

**PRESENTER:** Autumn Radcliff, Planning Director

**ATTACHMENTS:** 1. Draft Amendment

### SUMMARY OF REQUEST:

Planning staff received an application for a text amendment (#TX-2023-04) to amend the special fill requirements for the floodways and non-encroachment areas. This amendment, if adopted, would still comply with the state model ordinance. The Land Development Code (LDC) does not allow for an applicant to initiate a study of the floodway or consider any fill in the floodway area. The state ordinance allows for fill within the floodway if an applicant obtains a certification by a registered professional engineer proving that the anticipated encroachment will not result in any increase in the elevation of the regulatory flood during an occurrence of the base flood. The amendment would allow an applicant to seek a special fill permit from the Board of Commissioners if certification can be acquired. The current LDC allows for 20% of the flood fringe to be filled and allows for an applicant to seek a special fill permit from the Board of Commissioners when exceeding the 20% fill threshold if certification can be obtained. The LDC does not currently allow for fill of any kind in the floodway.

The Technical Review Committee will also review the proposed amendment at its meeting on October 3<sup>rd</sup>.

### BOARD ACTION:

The Planning Board is requested to make a recommendation on the proposed amendment before forwarding to the Board of Commissioners. 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, or unfavorable) recommendation on the proposed text amendment TX-2023-04, flood hazard amendment, and find that these changes are consistent with the County Comprehensive Plan.

# LDC Text Amendment (TX-2023-04) Flood Hazard Amendment Application

Changes are shown in red.

## Flood Hazard Amendment

### Summary:

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### Amend Section 42.234. Flood Hazard Reduction

#### **42-234.1 General Standards.**

In all *Special Flood Hazard Areas* the following provisions are required.

- A. In the *flood fringe* area as indicated on the *FIRM*, ~~no fill whatsoever shall be allowed except on parcels of land, the boundaries of which are of record in the Henderson County Registry as of the original date of adoption of these regulations (July 5, 2005), and then only upon~~ no more than 20 percent of the total of the *flood fringe* area **may be filled** contained in each such parcel, except that additional fill may be permitted in the *flood fringe* pursuant to a *special fill permit* (See §42-354 (Special Fill Permits).
- B. **In the *floodway* area as indicated on the *FIRM*, fill may be permitted in the *floodway* pursuant to a *special fill permit* (See §42-354 (Special Fill Permits).**

#### **§42-354. Special Fill Permits**

- A. Purpose. *Special Fill Permits* in the ***flood fringe special flood hazard area*** may be granted by the Board of Commissioners only in Conditional Zoning Districts where particular cases meeting specific community need and subject to appropriate conditions and safeguards.
- B. Permit Issuance. The Board of Commissioners shall have the power to grant permits for special fill in the ***flood fringe special flood hazard area***. In order to grant a Special Fill Permit, the Board of Commissioners must conclude that the **application meets the requirements under 42-354.**