

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

Meeting Date: March 2, 2009

Subject: Set Hearing or Workshop on Proposed Land Development Code 2008 Annual Text Amendments (TX-2008-05)

Attachments: 1. Table of Amendments
2. Proposed LDC Text Amendment (TX-2008-05)

SUMMARY OF REQUEST:

The Henderson County Land Development Code (LDC) was adopted with the anticipation that it would be reviewed each year and amended as needed. This is the first annual review since the LDC's adoption on September 19, 2007.

At the Board's January 5, 2009 meeting, Staff provided a brief overview of the text amendments that would be presented to the Board for its review. The Board requested a table listing all of the proposed text amendments (See Attachment 1). A detailed description of all of the proposed text amendments to the LDC (TX-2008-05) has also been provided for the Board's review (See Attachment 2). The proposed amendments address a range of issues including emergency vehicle access, some community character and design standards, clarifications to portions of the code text, and staff or Board concerns and/or suggestions.

The Planning Board reviewed the proposed LDC text amendments at its November 20, 2008 and December 18, 2008 meeting. The Planning Board voted unanimously (5-0) to send forth a favorable recommendation on the attached proposed LDC text amendments (See Attachment 2) excluding text amendments 17 and 21. At its January 15, 2009 meeting, the Planning Board considered text amendments 17 and 21 and voted (7-1) to send forth an unfavorable recommendation on these two amendments. The Environmental Advisory Committee reviewed text amendments 16, 17, 18 and 21 at its meeting on February 5, 2009 and voted unanimously to send forth a favorable recommendation on these four text amendments.

BOARD ACTION REQUESTED:

Staff is requesting direction from the Board on how to proceed with the proposed 2008 Annual LDC Text Amendments (TX-2008-05). The Board indicated at its January 5, 2009 meeting that it would either set a public hearing or a workshop on the proposed LDC text amendments. The following motions have been provided.

Suggested Motion:

I move that the Board schedule a public hearing on the 2008 Annual LDC Text Amendment (TX-2008-05) for Monday, April 6, 2009 at 7:00 P.M. or hold a special called meeting.

Or

I move that the Board schedule a workshop to discuss the 2008 Annual LDC Text Amendment (TX-2008-05) for (date/time).

Table of Land Development Code 2008 Annual Text Amendments (TX-2008-05)			
LDC Text Amendment	Planning Board & *Other Board Recommendations	Brief Description	Recommendation
LDC Text Amendment 1 (Technical)	Favorable	Clarify the difference between NCDOT acceptance of a road's design and NCDOT acceptance of maintenance responsibility following construction of the road that earlier received NCDOT design approval.	Add language that states that dedication of a public road for subdivisions means that the road is designed to meet NCDOT public road standards, but does not guarantee NCDOT will accept the proposed public road or agree to assume the maintenance responsibility of the road.
LDC Text Amendment 2 (Technical)	Favorable	The special subdivision option is a type of minor subdivision, but appears as a separate section in the LDC which has caused some confusion.	Reorganize Article III (Subdivision Regulations) of the LDC so the special subdivision option would fall within the minor subdivision section and the minimum threshold by which a development plan will be required for minor subdivisions would be moved from five (5) to six (6) lots. The standards for the special subdivision option would remain unchanged.
LDC Text Amendment 3 (Technical)	Favorable	To ensure the safe passage of emergency vehicles all roads must be located in a proposed right-of-way of a designated minimum width. The LDC should clarify that all proposed roads must be constructed or an improvement guarantee secured before a final plat can be recorded.	Add language specifically stating all roads shall be located within a right-of-way of a width determined by the number of lots served. Proposed roads must be constructed and may be inspected to verify the road is built to the applicable standards of the Chapter.
LDC Text Amendment 4 (Non-controversial)	Favorable	Currently, Master Plans remain valid for a period of 2 years or upon submittal of a Development Plan. The LDC does not address situations where a development plan(s) has been completed and no new development plan has been submitted for the remaining phases of the subdivision.	Add language that would require the applicant to reapply under the current applicable requirements if no new additional Development Plans have been submitted for a period of 4 years.
LDC Text Amendment 5 (Non-	Favorable	The LDC does not require increased setbacks and/or landscape screening for new major residential subdivisions that would help preserve the rural character of communities. Adding a provision to	Add a provision to require a 50 foot setback from any external road and require screening within the prescribed setback for all road classifications except local. This provision would not apply to any internal

Table of Land Development Code 2008 Annual Text Amendments (TX-2008-05)

LDC Text Amendment	Planning Board & *Other Board Recommendations	Brief Description	Recommendation
controversial)		require increased setbacks and landscape screening would provide a buffer to diminish the presence and impact of major subdivisions in rural settings and along key corridors.	roads within the subdivision and would not affect the locations of entrances/exits for the subdivision. Maintaining existing stands of trees is encouraged and would receive tree credits.
LDC Text Amendment 6 (Technical)	Favorable	The Technical Review Committee membership should be updated to reflect the current County organizational structure.	The LDC should state that the Technical Review Committee may consist of up to seven (7) regular members including department heads, or their designated representative(s), from the following County offices: Building Inspections, Environmental Health, Fire Marshal, Planning, Engineering, Soil Erosion and Sedimentation Control/Stormwater and Zoning.
LDC Text Amendment 7 (Technical)	Favorable	Flag lots can result in issues with emergency vehicles accessing homes via long, narrow drives. Although flag lots are strongly discouraged, certain circumstances warrant the use of flag lots. A provision should be added to clarify when flag lots may be approved.	Currently flag lots may be approved by the reviewing agency, but only under unusual circumstances. Add a provision that states these unusual circumstances include: severe topographic conditions, the presence of unique natural areas, preservation of working agricultural lands, or other limiting site conditions.
LDC Text Amendment 8 (Technical)	Favorable	The difference between R2 and R2MH needs to be clarified due to a recent text amendment allowing multi-section manufactured housing in all residential zoning districts.	Change the R2MH (Residential District Two Manufactured Housing) zoning district title to R2R (Residential District Two Rural). R2R would better reflect the rural business allowed in the R2MH zoning district. This proposed amendment would not change the uses currently allowed in R2MH.
LDC Text Amendment 9 (Technical)	Favorable	The manufactured home park sign regulations are inconsistent with the community identification sign regulations of Article VII (Sign Regulations) and should be corrected.	Modify the manufactured home park sign regulations of Article II, Subpart F to reference the sign regulations of Article VII which limit the placement of signs to only two (2) community entrances.

Table of Land Development Code 2008 Annual Text Amendments (TX-2008-05)			
LDC Text Amendment	Planning Board & *Other Board Recommendations	Brief Description	Recommendation
<p>LDC Text Amendment 10</p> <p>(Non-controversial)</p>	Favorable	A variance should be granted based on a hardship of the land, such as topographical issues, and should not be used as means to subdivide land that would not meet the density standards of the applicable zoning district. The current standards do not prevent applicants from using a variance request as way to circumvent the LDC density requirements in order to create a subdivision of land.	Add a provision that would prevent a variance being granted for the subdivision of a lot(s) if there is insufficient land/acreage to meet the density requirements of the current zoning district. This amendment does <u>not</u> prohibit the property owner from using his/her property, only from subdividing the land without acquiring additional acreage to meet the standard density.
<p>LDC Text Amendment 11</p> <p>(Non-controversial)</p>	Favorable	The LDC does not currently address solar panels as an accessory use for residences or businesses.	The amendment would specifically list solar panels as an accessory use that would be permitted in all zoning districts with supplemental requirements. Solar panels may be placed on the lot or roof of a residential, commercial or industrial structure/use. Panels shall be designed to produce no more than 150 percent of the on site use's energy consumption if placed on the lot of a commercial or industrial structure/use.
<p>LDC Text Amendment 12</p> <p>(Non-controversial)</p>	Favorable	The LDC does not currently allow for wind turbines as an accessory use for residential, commercial or industrial uses.	The amendment would specifically list wind turbines as an accessory use that would be allowed in all zoning districts with supplemental requirements. These supplemental requirements include limitations on the height, setbacks, color and compliance with both FAA and FCC regulations.
<p>LDC Text Amendment 13</p> <p>(Non-controversial)</p>	Favorable	Residential and commercial districts within the LDC currently allow for limited mixture of uses. The intention of the Mixed Use District (MU) is to allow for a more complex mixture of these uses within one large development, but it is too restrictive for this to be accomplished.	The MU district should be amended to reflect its intended purposes for allowing mixtures of uses beyond residential and commercial uses and to be in conformance with the current LDC standards.
LDC Text	Favorable	The LDC allows for the conservation subdivision	Add a provision that the Conservation Subdivision

Table of Land Development Code 2008 Annual Text Amendments (TX-2008-05)			
LDC Text Amendment	Planning Board & *Other Board Recommendations	Brief Description	Recommendation
Amendment 14 (Technical)		option in all zoning districts except for the WR (Waterfront Residential District) zoning district. The WR district was not included when in the LDC was amended to allow the conservation subdivision option in the R-40 zoning district.	option shall be allowed 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.
LDC Text Amendment 15 (Non-controversial)	Favorable	The LDC terminology for water and sewer systems does not adequately describe the various types of systems each of these utilities can encompass whether they are public or private.	In order to clarify this, the definitions and various references to sewage disposal systems and water supply systems needs to distinguish between the different types of systems allowed so that they are consistent with the State's standards and terminology.
LDC Text Amendment 16 (Non-controversial)	Favorable *EAC Recommended Approval of Amendment	Requiring connections to municipal water and sewer systems in those areas designated as Rural (RAA) by the Henderson County 2020 Comprehensive Plan is inconsistent with the recommendations of the Comprehensive Plan (See CCP pgs 132-133; items 3 and 10).	Add language that states 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.
LDC Text Amendment 17 (Discussion Item)	<u>Unfavorable</u> *EAC Recommended Approval of Amendment	There are no provision in the LDC to ensure that an adequate source of potable water is available to support a major subdivision located in the RAA prior to approving the subdivision, installing the supporting infrastructure, and recording the final plat.	To encourage the use of community wells and better address water quantity prior to recording lots, major subdivisions in the RAA shall do one of the following: provide a public community well system where individual wells are not allowed, or provide proof that there is a sufficient water supply to support 60% of the proposed lots in the subdivision.
LDC Text Amendment 18 (Possible Discussion Item)	Favorable *EAC Recommended Approval of Amendment	The process for approving conservation subdivisions, as compared to conventional subdivisions, should be streamlined to encourage conservation subdivisions as the preferred way of development,	Require all major residential subdivisions proposing 35 or more lots to adhere to one of the following: (1) meet the conservation subdivision standards; (2) apply for a conditional zoning district, or (3) seek a development agreement. This provision will still allow for conventional subdivisions with 35 or more lots, but will require these subdivisions to be approved by the

Table of Land Development Code 2008 Annual Text Amendments (TX-2008-05)			
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			Board of Commissioners as a conditional zoning district or by seeking a development agreement.
LDC Text Amendment 19 (Possible Discussion Item)	Favorable	The LDC does limit the number of lots that can be served by a road with a single entrance. Requiring major subdivisions to provide for alternative points of access will: address public safety concerns, improve emergency vehicle access and Emergency Service response time, and provide for improved traffic flows.	Add a provision that no more than 35 lots shall be accessed from a proposed road or series of proposed roads with a single entrance. This means that no more than 35 lots shall be accessed from a dead-end road, cul-de-sac or turnaround. These requirements may be waived by the approving authority where severe topographic issues, steep terrain, or the presence of floodplain would make it impractical to secure an additional access point.
LDC Text Amendment 20 (Possible Discussion Item)	Favorable	The current pedestrian facilities requirement is limited to subdivisions with 100 or more lots <u>and</u> a density equal to or greater than 2 units per acre. This requirement does not capture major subdivision with very dense development that may occur in the R1 zoning district, or major subdivision with 100 or more lots that may occur in the R3 and R4 zoning districts and have very low densities.	Clarify the subdivision standards so that all major subdivision with either 100 or more lots <u>or</u> a density equal to or greater than 2 units per acre provide pedestrian facilities, sidewalks and/or trails.
LDC Text Amendment 21 (Discussion Item)	<u>Unfavorable</u> *EAC Recommended Approval of Amendment	The County Comprehensive Plan recommends that certain types of uses such as wastewater treatment plants should not be permitted in the RAA, which is predominately made up of the R3 and R4 zoning districts.	Remove small accessory wastewater treatment plants as permitted uses in the R3 and R4 zoning districts from the Table of Permitted and Special Uses.
LDC Text Amendment 22 (Possible Discussion Item)	Favorable	Dense development should be allowed and encouraged where infrastructure and services are currently available in order to provide for more affordable housing and reduce total infrastructure costs.	Add a provision to allow an intermediate density of eight (8) units per acre in the Residential One (R1) Zoning District where municipal water and public sewer are available.

Table of Land Development Code 2008 Annual Text Amendments (TX-2008-05)			
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Item)			

Land Development Code 2008 Annual Text Amendments (TX-2008-05)

Technical and Non-Controversial Text Amendments:

LDC Text Amendment 1 (Technical amendment):

Issue: NCDOT certifies by signing on plats that a road's design meets State Highway Maintenance System standards. NCDOT signatures do not indicate acceptance of maintenance responsibility for a proposed road. This clarification will address the difference between NCDOT acceptance of a road's design and NCDOT acceptance of maintenance responsibility following construction of the road that earlier received NCDOT design approval.

Planning Board Recommended

Recommendation: Add the following text to §200A-81(C)(1).

§200A-81. Major Subdivisions

- (1) Public Roads. All *roads* proposed for public use shall be annotated "public" on plans and *plats* and shall be designed and constructed in accordance with the standards necessary to make the *roads* eligible to be put on the State Highway Maintenance System at a later date. Such standards, hereafter referred to as "*State Road Standards*," are contained in a publication of the North Carolina Department of Transportation, Division of Highways, titled "Subdivision Roads - Minimum Construction Standards," a copy of which is available for review in the office of the *Subdivision Administrator*. Designation as public shall be presumed an offer of dedication to the public; **however, this does not guarantee that NCDOT will accept proposed public roads or agree to assume the maintenance responsibility of the proposed public road.** The *applicant* for a commercial, office institutional or industrial *subdivision* shall provide *roads* constructed no less than *State Road Standards*. Pursuant to G.S. 136-102.6(d) the *NCDOT* District Engineer's Office must sign a certificate of approval **of the design of the public road** provided on the face of the *final plat* for any *subdivision* where *public roads* are proposed prior to County approval of the *final plat*.

LDC Text Amendment 2 (Technical amendment):

Issue: The special subdivision option is a type of minor subdivision, but appears as a separate section in the LDC which has caused some confusion. The proposed amendment would reorganize Article III (Subdivision Regulations) of the LDC so that the special subdivision option would fall within the minor subdivision section. The standards for the special subdivision option will remain unchanged. In order to provide consistent standards and further clarification, the minimum threshold by which a development plan will be required for minor subdivisions shall be moved from five (5) to six (6) lots.

Planning Board Recommended

Recommendation: Amend §200A-78(F) through (H) to include the special subdivision text and reflect the minor subdivision development plan threshold change and reserve §200A-79.

§200A-78. Minor Subdivisions

- F. Minor Subdivision Standards (~~Fewer than Five (5) or Fewer Lots~~). A *minor subdivision* of **five (5) or fewer than five (5) lots** shall:
- (1) **Adhere to the following minimum requirements for all proposed private roads ~~must meet the following minimum requirements:~~**
 - (2) **Adhere to the requirements of §200A-78 (Minor Subdivisions) subsections A, B, C, D, E, F, I and J.**
- G. Minor Subdivision Standards (Five (5) or Fewer Lots) Special Subdivision Option. A *minor subdivision* of **five (5) or fewer lots** utilizing the *special subdivision* option shall:
- (1) **Not be available in the Estate Residential (R-40) or Waterfront Residential (WR) Districts.**
 - (2) **Result in lots which meet the minimum *residential density* requirements for the applicable zoning district or which have a minimum *lot size* of at least one-half (½) acre (21,780 square feet) in size, whichever is less.**
 - (3) **Adhere to the requirements of §200A-78 (Minor Subdivisions) subsections D, E and F.**
 - (4) **Not adhere to the requirements of §200A-78 (Minor Subdivisions) subsections A, B and C and shall instead adhere to the following regarding phasing and expansion:**
 - a. **A *special subdivision* may be phased, but no more than five (5) lots within a five (5) year period shall be allowed within the boundaries of the *tract* that was the subject of the original *special subdivision* application.**
 - b. **If ever expanded (more than five (5) lots are created within the five (5) year period) the *applicant* shall lose the *special subdivision* option and must comply with the procedures for *minor subdivisions* of six (6) or more *lots* or *major subdivisions* (§200A-81 (Major Subdivisions)) depending on the number of *lots* created. If expansion occurs, the applicant will be required to reapply under the applicable *minor subdivision* or *major subdivision* provisions. Expansions of *special subdivisions* shall comply with the following requirements:**
 1. **The applicant will be required to build all infrastructure required by §200A-76 (Minor Subdivisions) H (Minor Subdivision Standards (Six 6) to Ten (10) Lots or §200A-81 (Major Subdivisions).**
 2. **The subdivision must meet all applicable zoning district regulations found in Article II (Zoning District Regulations).**
 3. **The reviewing agency may require the upgrading of improvements, including *road paving*, utility upgrading and additional *right-of-way* dedication.**
 4. **All *lots* created by a *special subdivision* will count toward the total number of *lots* for any *minor subdivision* or *major subdivision* densities.**

- (5) Include on the *final plats* for *special subdivision* the following certificate, signed by the property owner, provided on the face of the *plat*:

Certificate of Understanding

I (we) hereby certify that I am (we are) the owner(s) of the property located within the subdivision-regulation jurisdiction of Henderson County as shown and described hereon, and that I (we) hereby adopt this plan of subdivision. I (we) understand that expansion of this subdivision may result in the upgrading of road infrastructure, utilities and additional right-of-way dedication and other applicable requirements as required by the Subdivision Regulations (Article III) of the Land Development Code (Chapter 200A of the Henderson County Code). All proposed roads in this subdivision will meet the minimum requirements outlined in §200A-78 (Minor Subdivisions) F for private roads and §200A-81 (Major Subdivisions) C(1) for public roads.

Date

Owner(s)

- H. Minor Subdivision Standards (~~Six (6) Five (5)~~ to Ten (10) Lots). A *minor subdivision* of ~~six (6) five (5)~~ to ten (10) *lots* shall:

- (2) Adhere to the requirements of §200A-78 (Minor Subdivisions) subsections A, B, C, D, E, I and J.

§200A-79. ~~Special Subdivision (Option)~~ Reserved

LDC Text Amendment 3 (Technical amendment):

Issue: All proposed private roads for minor subdivisions must be located within a right-of-way of a width determined by the number of lots served. This standard is followed for all new minor subdivision proposing 5 or fewer lots, but the standard for right-of-way is not referenced in the LDC. This amendment to the subdivision standards clarifies that all roads must be located in a proposed right-of-way of a designated minimum width and that all proposed roads must be constructed or an improvement guarantee secured before a final plat can be recorded. Proposed roads must be constructed and may be inspected to verify the road is built to the applicable standards of the Chapter and ensure the safe passage of emergency vehicles.

Planning Board Recommended

Recommendation: Add the following to §200A-78(F)(1), §200A-78(I), and §200A-81(U).

§200A-78. Minor Subdivisions

- F. Minor Subdivision Standards (Five (5) or Fewer Lots). A *minor subdivision* of five (5) or fewer *lots* shall:

- (1) Adhere to the following minimum requirements for all proposed private *roads*:
- a. All *roads* shall be located within a *right-of-way* of a width determined by the number of *lots* served as noted in Table 3.1 (Subdivision Private Road Standards).

§200A-78. Minor Subdivisions

- I. Final Plats for Minor Subdivisions. The *final plat* for a *minor subdivision* shall contain all information required by the provisions of this Code. *A final plat may only be recorded upon the completion of the required improvements or the securing of an improvement guarantee (see §200A-87 (General) and §200A-88 (Amount and Terms of Guarantee; Time Limits)).*

§200A-81. Major Subdivisions

- U. Final Plats for Major Subdivisions. The *final plat* for a *major subdivision* shall contain all information required by the provisions of this Code. *A final plat may only be recorded upon the completion of the required improvements or the securing of an improvement guarantee (see §200A-87 (General) and §200A-88 (Amount and Terms of Guarantee; Time Limits)).*

LDC Text Amendment 4 (Non-Controversial):

Issue: Master plans remain valid for a period of 2 years or upon submittal of a development plan. The LDC does not address situations where a development plan(s) has been completed and no new development plan has been submitted for the remaining phases of the subdivision. The proposed amendment would require the applicant to reapply under the current applicable requirements if no new additional development plans have been submitted for a period of 4 years.

Planning Board Recommended

Recommendation: Add the following to §200A-309(F) as follows.

§200A-309. Master Plans

- F. Approval Validity. Master plan approval is valid for two (2) years and shall be annotated on the plan. If, at the completion of the two-year period, no development plan has been submitted, the *applicant* must reapply under the current applicable requirements. *Upon completion of a development plan, where no new development plan had been submitted for a period of four (4) years, the applicant must reapply under the current applicable requirements for the remainder of the project.*

LDC Text Amendment 5 (Non-Controversial):

Issue: To preserve the rural character of communities along corridors, require increased setback and/or landscape screening for new major residential subdivisions. This provision would require a 50 foot setback from any external road and screening within the prescribed setback for all road classifications except local. This provision would not apply to any internal roads within the subdivision and would not affect the locations of entrances/exits for the subdivision. The increased setbacks and landscape

screening would provide a buffer to diminish the presence and impact of major subdivisions in rural settings and along these key corridors.

Planning Board Recommended

Recommendation: Add Section T to §200A-81(T) as follows:

§200A-81. Major Subdivisions

T. **Subdivision Setback and Buffering.** It is intended that larger *subdivisions* be designed so that development limit the impact on the rural character of Henderson County. *Major subdivisions* located within a residential zoning district and not within a designated Community Service Center Node in the *Comprehensive Plan* shall adhere to the requirements herein.

These *subdivisions* shall be designed with a minimum 50 foot *setback* from any *external road* (except where the *external road* is a *local road* (in which case the 50 foot setback does not apply)). *Lots* may be created which contain all or portions of the property within this *setback*; however, no *structure* may be placed within the *setback*.

Buffering shall also be required to be placed within the *setback* as prescribed herein (except where the *external road* is a *local road* (in which case no buffering is required)). Where the *subdivision* is located along a: *collector road, thoroughfare, boulevard, expressway or freeway* a *B2 buffer* shall be required (see Article V (Landscape Design Standards) Subpart A (Buffer Requirements)).

In order to meet the buffering requirements, the *applicant* is encouraged to maintain existing stands of trees in accordance with §200A-153 (Credits for Preserving Existing Trees).

LDC Text Amendment 6 (Technical amendment):

Issue: The Technical Review Committee membership should be updated to reflect the current County organizational structure.

Planning Board Recommended

Recommendation: Amend §200A-276(C) as follows.

§200A-276. Henderson County Technical Review Committee

C. **Membership.** The Technical Review Committee may consist of up to seven (7) regular members. Department heads, or their designated representative(s), from the following County offices shall be appointed as regular members of the Technical Review Committee: Building **Services Inspections**, Environmental Health, Fire Marshal, Planning, Engineering, Soil Erosion and Sedimentation Control/**Stormwater** and Zoning.

LDC Text Amendment 7 (Technical amendment):

Issue: Flag lots can result in issues with emergency vehicles accessing homes via long, narrow drives. Although flag lots are strongly discouraged, certain circumstances warrant the use of flag lots. The following provision will clarify when flag lots may be approved.

Planning Board Recommended

Recommendation: Amend §200A-81(M).

§200A-81. Major Subdivisions

M. Lot Designs

- (4) Lot Configuration and Frontage. Where possible, side *lot* lines shall be at right angles or radial to the *roads* on which the *lots* face. The narrowest width of any *lot* abutting the *right-of-way* will be 30 feet. *Flag lots* or *lots* which only have a narrow strip of land fronting the *lot* on a *road* may be approved by the reviewing agency, but only under unusual circumstances (including severe topographic conditions, the presence of unique natural areas, preservation of working agricultural lands, or other limiting site conditions).

LDC Text Amendment 8 (Technical amendment):

Issue: The R2MH zoning district was established because it allowed for low to medium density residential and commercial uses, but differed from the R2 zoning district by allowing manufactured housing. Due to a recent text amendment, multi-section manufactured housing is allowed in all residential zoning districts. To clarify the difference between R2 and R2MH in reference to the allowed uses, particularly rural commercial uses, the R2MH zoning district title should be changed to R2R (Residential District Two Rural). This proposed amendment would differentiate R2MH from R2 and better reflect the rural businesses allowed in the R2MH zoning district. This amendment would not change the uses currently allowed in R2MH.

Planning Board Recommended

Recommendation: Amend §200A-23(3), §200A-29(A), and §200A-62.

§200A-23. General Use Zoning Districts

- (3) Residential District Two ~~Manufactured Housing (R2MH)~~ Rural (R2R)

§200A-29. Residential District Two ~~Manufactured Housing (R2MH)~~ Rural (R2R)

- C. **Purpose.** The purpose of Residential District Two ~~Manufactured Housing (R2MH)~~ Rural (R2R) is to foster orderly growth where the *principal use* of land is residential and commercial. The intent of this district is to allow for low to medium density *residential development* and rural commercial and light industrial development with the inclusion of ~~manufactured housing~~, consistent with the recommendations of the *Comprehensive Plan*. This general use *district* is typically meant to be utilized in areas designated as Transitional in the *Comprehensive Plan*.

§200A-62. Table of Permitted and Special Uses

USE TYPE	GENERAL USE DISTRICT											
	P=Permitted; S=Special Use Permit											
	R1	R2	R2MH R2R	R3	R4	OI	MU	LC	CC	RC	I	SR

LDC Text Amendment 9 (Technical amendment):

Issue: The manufactured home park sign regulations noted in Article II (Zoning) Subpart F (Supplemental Requirements) are inconsistent with the community identification sign regulations of Article VII (Sign Regulations). The proposed amendment would modify the manufactured home park sign regulations of Article II, Subpart F to reference the sign regulations of Article VII which limit the placement of signs to only two (2) community entrances.

Planning Board Recommended

Recommendation: Amend SR 1.13 (22) as follows.

SR 1.13. Manufactured Home Park.

- (22) Signage. *Signs* shall adhere to all standards outlined in Article ~~IX~~ VII of this Chapter. The *applicant* for an *MHP* shall provide:
- a. A minimum of one (1) *community identification sign* at each entrance, **but no more than two (2) entrances**, a minimum of one (1) foot in height by three (3) feet in width;
 - b. *Road name signs* in accordance with Chapter 142 of the Henderson County Code, *Property Addressing*; and
 - c. *Governmental signs* of a regulatory nature (including “stop” signs) in accordance with applicable local and state policies.

LDC Text Amendment 10 (Non-Controversial):

Issue: A variance should be granted based on a hardship of the land, such as topography issues, and should not be used as means to subdivide land that would not meet the density standards of the applicable zoning district. To prevent applicants from using a variance request as way to circumvent the LDC density requirements, add a provision that would prevent a variance being granted for the subdivision of a lot(s) if there is insufficient land/acreage to meet the density requirements of the current zoning district. This amendment does not prohibit the property owner from using his/her property, only from subdividing the land without acquiring additional acreage to meet the standard density.

Planning Board Recommended

Recommendation: Amend §200A-335(G)(1) as follows.

- (1) Standards of Review. The *ZBA* shall not grant a *Variance* the effect of which would be to: (1) allow the establishment of a *use* not otherwise permitted in a general *use district*, (2) extend physically a *nonconforming use* of land or (3) change the district boundaries shown on the Official Zoning Map. No *Variance* shall be granted or considered where the fact that the property could be used more profitably is the reason for the request for the *Variance*. The following written findings must be made in order for the *ZBA* to grant a *Variance*:
- a. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:

1. The fact that, if the *applicant* complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable *use* of, the property.
 2. The hardship of which the *applicant* complains results from unique circumstances related to the *applicant's* land.
 3. The hardship is not the result of the *applicant's* own action.
- b. The *Variance* is in harmony with the general purpose and intent of this Chapter and will preserve its spirit.
 - c. The *Variance* will secure the *public safety* and welfare and will do substantial justice.
 - d. The *Variance* shall not be based on the existence of a *nonconforming use* of neighboring land or *structures* in the same district, or permitted *nonconforming uses* in other districts, and shall in no way constitute a reason for the requested *Variance*.
 - e. **The *Variance* shall not allow for an increase in density for the purposes of subdividing the land that would otherwise not be permitted by the applicable zoning district or *subdivision* regulations.**

LDC Text Amendment 11 (Non-Controversial):

Issue: The LDC does not currently address solar panels as an accessory use for residences or businesses. The following amendment would specifically list solar panels as an accessory use that would be permitted in all zoning districts with supplemental requirements.

Planning Board Recommended

Recommendation: Amend §200A-62 Table of Permitted and Special Uses and add an SR 2.11 Solar Panels.

§200A-62. Table of Permitted and Special Uses

USE TYPE	GENERAL USE DISTRICT P=Permitted; S=Special Use Permit											
	R1	R2	R2MH	R3	R4	OI	MU	LC	CC	RC	I	SR
2. ACCESSORY USES												
Solar Panels	P	P	P	P	P	P	P	P	P	P	P	2.11

*Add as a permitted use in the R-40 and WR zoning districts with supplemental requirements.

§200A-63. Supplemental Requirements to the Table of Permitted and Special Uses

SR 2.11. Solar Panels

(1) Location. Panels:

- a. May be placed on the roof of a residential, commercial or industrial *structure*;

- b. May be placed on the *lot* on which a *structure* is located (where this is a commercial or industrial *structure* and *use*, these panels shall be designed to produce no more than 150 percent of the on site use's energy consumption); and
- c. Should be placed to avoid undue glare to adjacent properties and *roads*.

LDC Text Amendment 12 (Non-Controversial):

Issue: The LDC does not currently allow for wind turbines as an accessory use for residential, commercial or industrial uses. The following amendment would specifically list wind turbines as an accessory use that would be allowed in all zoning districts with supplemental requirements.

Planning Board Recommended

Recommendation: Amend §200A-62 Table of Permitted and Special Uses and add an SR 2.12 Wind Turbine.

§200A-62. Table of Permitted and Special Uses

USE TYPE	GENERAL USE DISTRICT											
	P=Permitted; S=Special Use Permit											
	R1	R2	R2MH	R3	R4	OI	MU	LC	CC	RC	I	SR
2. ACCESSORY USES												
Wind Turbines (Wind Mills)	P	P	P	P	P	P	P	P	P	P	P	2.12

*Add as a permitted use in the R-40 and WR zoning districts with supplemental requirements.

§200A-63. Supplemental Requirements to the Table of Permitted and Special Uses

SR 2.12. Wind Turbines (Wind Mills)

- (1) Height. Wind turbine height shall be no more than 40 feet above any obstruction (*structure*, tree, etc. (excluding *communication towers*)) within a 200 foot radius of the base of the wind turbine. In no case shall the height exceed 100 feet.
- (2) Setback. The base of the wind turbine shall be at least ten (10) feet from surrounding property lines. Wind turbines that are more than 40 feet in height shall be *setback* from property lines by a distance equivalent to 110 percent of the height of the wind turbine at its highest point.
- (3) Color. Wind turbines must be a color that is consistent with *existing development* or natural conditions.
- (4) Compliance with FAA Regulations. Wind turbines must comply with applicable FAA regulations, including any necessary approvals for installation close to *airports*. Evidence of compliance or non-applicability shall be submitted to the *Zoning Administrator*.
- (5) Compliance with FCC Regulations. Wind turbines must comply with applicable FCC regulations. Evidence of compliance or non-applicability shall be submitted to the *Zoning Administrator*.

LDC Text Amendment 13 (Non-Controversial):

Issue: Residential and commercial districts within the Land Development Code currently allow for limited mixture of uses. For example, the Local Commercial (LC) zoning district allows for virtually all types of residential uses excluding mobile homes, singlewide manufactured homes, and manufactured home parks. The intention of the Mixed Use District (MU) is to allow for a more complex mixture of uses within one large development. The MU district should be amended to reflect its intended purposes for allowing mixtures of uses beyond residential and commercial uses.

Planning Board Recommended

Recommendation: Amend Article II, Subpart C (Mixed Use District) as follows:

§200A-52. Mixed Use District (MU)

The Mixed Use District (MU) is created to plan and promote ~~neighborhoods~~ **developments** that embody variety, innovation, and flexibility ~~in development~~ by allowing a variety of *uses, lot sizes, dwelling unit types, and design requirements*. MU districts are intended to be located in areas designated by the *Comprehensive Plan* as Transitional or Urban, and are required to utilize **municipal, public, or community** ~~or private~~ utility systems. MU districts shall be considered Conditional Zoning Districts only. The intent of the MU district is to: (1) permit a creative approach to the development of land; (2) provide for an efficient *use* of land; (3) enhance the appearance of ~~neighborhoods~~ **developments** through preservation of natural features; and (4) provide for recreational areas and *open space* where appropriate.

~~A. **Land Use Types and Ratios.** Within an approved MU district, land *uses* shall be allocated as indicated in Table 2.13. The *use* requirement may be satisfied by adjacent *existing development* that meets the requirements of this section.~~

Table 2.13 Land Use Allocation, Density and Floor Area Ratio				
Use	Land Allocation (% total area)	Maximum Density (units/acre)	Floor Area Ratio (building footprint area : lot area)	
			Minimum	Maximum
<i>Open space</i>	20-40	N/A	N/A	N/A
Single Family Residential	25-60	5	N/A	N/A
Multifamily Residential	10-40	16	N/A	N/A
Civic	0-10	N/A	0.4	1.0
Retail/Office/Service(1)	5-25	N/A	0.4	1.0

B. Dimensional Requirements. Each *use* allowed in this 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 §200A-63 (Supplemental Requirements).

- (1) Dimensional requirements for single and multifamily residential *uses* shall be the same as those found in the R1 District.
- ~~(2) Dimensional requirements for recreational; educational; institutional; business, professional, and personal services; and retail *uses* shall be the same as those found in the LC District.~~
- (3) Residential *accessory structures* shall be located in *rear* and *side yards* and shall be *setback* ten (10) feet from any property line.

C. General Provisions.

- a. Site Plan. Major Site Plan required in accordance with §200A-299 (Major Site Plan Review).
- ~~b. Road Class. This *use* shall be located on a *collector, thoroughfare, boulevard* and/or *expressway*.~~
- ~~c. Nonresidential *uses* within the MU district shall be designed to serve residents of the MU district and nearby areas only. Large scale establishments and developments intended to serve the extended community are not encouraged an MU district.~~
- ~~d. Nonresidential *uses* that are contained in the MU district shall be limited to those nonresidential uses found in the OI, LC, and CC districts only.~~
- ~~e. A food store shall have a maximum *gross floor area* of 30,000 square feet. The maximum *gross floor area* for any other commercial *use* within the MU shall be 10,000 square feet.~~
- f. All MU districts shall be approved as a Conditional Zoning District and shall adhere to a *site-specific development plan*.
- g. A minimum of ten (10) acres is required for the establishment of an MU district. All lands in an MU district shall be under single ownership or management by the *applicant* as exhibited by a deed and/or legal title at the time of application and development of each *phase*. An MU district may include lands under joint or multiple ownership where the *applicants* seek such an MU.
- h. An MU district and a *subdivision* that occur simultaneously as one contiguous development shall adhere to the requirements of an MU district and conditional zoning district and shall also follow the review processes of ~~a *major subdivision*~~ §200A-308 (Review for Major Subdivisions and Conservation Subdivisions of Three Hundred (300) or More Lots).
- i. MU districts may be developed in *phases*.
- j. Pervious pavement shall be required for a minimum of 25 percent of all paved surfaces (*roads*, parking areas, drives, sidewalks, etc.) within an MU District.
- k. All MU Districts shall adhere to the road standards required for a *major subdivision* in accordance with §200A-81 (Major Subdivision), Subsection C (Roads) and shall be organized:
 1. To provide increased internal mobility;

2. To provide safe and convenient access;
 3. In intersecting/grid patterns where possible; and
 4. Without cul-de-sacs (except where topographical considerations/restrictions are submitted by the *applicant*).
- l. In accordance with this Chapter, a *driveway* shall serve three (3) or fewer *dwelling units*. Within an approved MU district, a *driveway* may serve a four (4) unit *building (quadraplex)*, but in no case shall a single *driveway* serve more than one (1) individual *quadraplex*.
 - m. Where an MU district is located along any *road* with current public transit access and such public transit authority approves the addition of a stop, such MU district shall provide a minimum of one (1) public transit access shelter for the use of occupants/patrons.
 - n. Utility lines within an MU district shall be subsurface.
 - o. Solid waste collection systems must be installed and/or operated to meet all local and state statutes, ordinances and regulations and shall thereafter be certified by the Department of Public Health. Each MU district shall provide a suitable method of solid waste disposal (in accordance with Chapter 165 of the Henderson County Code, Solid Waste) and collection consisting of either private collection from individual *uses* or the *use* of dumpsters. Where dumpsters are used concrete pads shall be designed to drain to a bio-retention area to filter stormwater before the water reaches a larger drainage system, and a Screen Class One (1), Two (2), or Three (3) shall be provided consistent with the requirements of §200A-150 (Screen Classification).
 - p. An MU district shall include *open space* in perpetuity (perpetual *easements* or deed restrictions are required) equivalent to 20 percent of all lands within the MU district. ~~This designated *open space* area shall:~~
 - ~~1. Not include more than 50 percent in primary conservation areas; and~~
 - ~~2. Not be composed entirely of secondary conservation areas.~~
 - q. Common Area Requirements. A *common area* shall be provided, that is equivalent to ten (10) percent of the total MU district. *Common area* shall be: accessible for the *use* and enjoyment of the MU district occupants/patrons, located as to be free of traffic hazards, and maintained in good condition by the *applicant*.

LDC Text Amendment 14 (Technical amendment):

Issue: The LDC allows for the conservation subdivision option in all zoning districts except for the WR (Waterfront Residential District) zoning district. The WR district was not included when in the LDC was amended to allow the conservation subdivision option in the R-40 zoning district. If all major subdivisions are encouraged to apply to the conservation subdivision standards, then the WR should be clarified to add for this provision as well.

Planning Board Recommended

Recommendation: Amend §200A-38 (B), Waterfront Residential District (WR).
§200A-38. Waterfront Residential District (WR)

- 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 §200A-63 (Supplemental Requirements). The Conservation Subdivision option shall ~~not~~ 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.**

LDC Text Amendment 15 (Non-Controversial):

Issue: The LDC terminology for water and sewer systems does not adequately describe the various types of systems each of these utilities can encompass whether they are public or private. In order to clarify this, the definitions and various references to sewage disposal systems and water supply systems needs to distinguish between the different types of systems allowed. This will also amend the definitions so that they are consistent with the State's standards and terminology.

Planning Board Recommended

Recommendation: Amend §200A-359 (Definitions), and those provisions which reference these definitions including: §200A-27 (Residential District One (R1)), §200A-28 (Residential District Two (R2)), §200A-29 (Residential District Two Manufactured Housing (R2MH)), §200A-32 (Office Institutional District (OI)), and §200A-33 (Local Commercial District (LC)), §200A-63 (Supplemental Requirements to the Table of Permitted and Special Uses), and §200A-81 (Major Subdivisions).

§200A-359. Definitions

Sewage Disposal System. Any facilities for *wastewater* (sewage) collection, treatment and disposal which. ~~A sewage system~~ may be of the following types: ***septic tank sewage disposal system, approved public or community sewage disposal system, or municipal sewage disposal system.***

- ~~(1) Septic Tank. A subsurface wastewater system consisting of a settling tank and subsurface disposal field.~~
- ~~(2) Approved Public or Community Sewage System. A single system of sewage collection, treatment and disposal owned and operated by a sanitary district, metropolitan sewage district, water and sewer authority, county, municipality or public utility constructed and operated in compliance with applicable requirements of the North Carolina Division of Environmental Management.~~
- ~~(3) Municipal Sewage Disposal System. An approved public or community sewage system that is owned and operated by a county or municipality.~~

Sewage Disposal System, Municipal. ***A sewage disposal system that is owned and operated by a local government.***

Sewage Disposal System, Approved Public or Community. ***A sewage disposal system which is a single system of sewage collection, treatment and disposal owned and operated by a sanitary district, metropolitan sewage district, water and sewer authority, county, municipality or public utility***

constructed and operated in compliance with applicable requirements of the North Carolina Division of Environmental Management.

Sewage Disposal System, Septic Tank. *A sewage disposal system which consists of a settling tank and subsurface disposal field.*

Water Supply System. A system for the collection, treatment, storage and distribution of potable water from the source of supply to the consumer. ~~A water supply system~~ and which may be of the following types: *private well water supply system, public water supply system, and municipal water supply system.*

~~(1) Private Well Water Supply. Any water supply furnishing potable water to less than 15 residences or 25 persons.~~

~~(2) Public Water System.~~

~~a. A system for the provision to the public of piped water for human consumption that serves 15 or more service connections or which regularly serves 25 or more individuals.~~

~~The term includes:~~

~~1. Any collection, treatment, storage or distribution facility under the control of the operator of the system and used primarily in connection with the system; or~~

~~2. Any collection or pretreatment storage facility not under the control of the operator of the system that is used primarily in connection with the system.~~

~~b. A public water system is either a "community water system" or a "noncommunity water system" as follows:~~

~~1. "Community water system" is a public water system that serves 15 or more service connections or which regularly serves at least 25 year round residents.~~

~~2. "Noncommunity water system" is a public water system that is not a community water system.~~

~~(3) Municipal Water System. A public water system owned and operated by a local government.~~

Water Supply System, Municipal. *A water supply system owned and operated by a local government.*

Water Supply System, Private Well. *A water supply water system furnishing potable water to less than 15 connections or 25 persons.*

Water Supply System, Public. *A municipal water supply system or:*

(1) A system for the provision to the public of piped water for human consumption that serves 15 or more service connections or which regularly serves 25 or more individuals. The term includes:

a. Any collection, treatment, storage or distribution facility under the control of the operator of the system and used primarily in connection with the system; or

b. Any collection or pretreatment storage facility not under the control of the operator of the system that is used primarily in connection with the system.

(2) A "community water system" or a "noncommunity water system" as follows:

a. "Community water system" is a public water system that serves 15 or more service connections or which regularly serves at least 25 year-round residents.

b. "Noncommunity water system" is a public water system that is not a community water system.

§200A-27. Residential District One (R1)

- (3) Maximum residential density shall be available to applicants proposing five (5) or more dwellings in any combination of the following unit types (duplexes, triplexes, quadraplexes and multifamily dwellings with five (5) or more units and specifically excluding single-family units) where:
- a. A total of at least five (5) units would be permitted by standard residential density, and
 - b. Such dwellings are generally served by ~~public or private utility systems~~ both: (1) *a municipal water supply system* and (2) *a sewage disposal system (of the following types: municipal, approved public, or approved community)* which meet the requirements of the Henderson County Department of Environmental Health or other governmental authorities having jurisdiction thereof.

§200A-28 (Residential District Two (R2)), §200A-29 (Residential District Two Manufactured Housing (R2MH)), §200A-32 (Office Institutional District (OI)), and §200A-33 (Local Commercial District (LC))

- (3) Maximum residential density shall be available to applicants proposing five (5) or more dwellings in any combination of the following unit types (duplexes and triplexes and specifically excluding single-family units) where:
- a. A total of at least five (5) units would be permitted by standard residential density, and
 - b. Such dwellings are generally served by ~~public or private utility systems~~ both: (1) *a public water supply system* and (2) *a sewage disposal system (of the following types: municipal, approved public, or approved community)* which meet the requirements of the Henderson County Department of Environmental Health or other governmental authorities having jurisdiction thereof.

**§200A-63. Supplemental Requirements to the Table of Permitted and Special Uses
SR. 1.13 Manufactured Home Parks.**

- (7) Sewer and Water Service Provision Requirements. The approval and installation of all ~~sewer~~ *sewage disposal system* and *water supply system* improvements shall be in accordance with this Chapter. *Water supply systems* and ~~sewer~~ *sewage disposal systems* must be installed and/or operated to meet all local and state statutes, ordinances and regulations and shall thereafter be certified by the Department of Public Health. The following shall apply:
- d. Water. Each *manufactured/mobile home* in an *MHP* shall be supplied water from either an approved *municipal water supply system* or *public water supply system*. Individual water wells shall not be permitted in an *MHP*. An *MHP* shall connect to a *municipal water supply system* when the system is located within a distance equal to the product of 100 feet multiplied by the number of spaces proposed for the *MHP*. If an *MHP* is located more than 5,000 feet from an existing *municipal water supply system*, such connection shall not be required.
 - e. Sewage. Each *manufactured/mobile home* in an *MHP* shall be supplied with a hookup to a septic tank, *approved public or community sewage disposal system* or *municipal*

sewage disposal system. An *MHP* shall connect to a *municipal sewage disposal system* when the system is located within a distance equal to the product of 50 feet multiplied by the number of spaces proposed for the *park*. If a *park* is located more than 2,500 feet from an existing municipal sewage disposal system, such connection shall not be required.

- f. Exceptions to Municipal Water and Sewage Disposal System Connection Requirements. Exceptions may be allowed on the basis of terrain, availability or ease of acquiring *easements*, denial of allocation by the public utility, insufficient capacity of the municipal system or other circumstances that are unusual/unique to the site. Requests for exceptions must be made, in writing, to the *MHP Administrator* who may ask that such requests be supported by a professional engineer's review of the *manufactured home park* plans and planned route of the utility extension. Where the *MHP Administrator* finds it would not be economically feasible for an *MHP* to be connected to a *municipal water supply system* and/or *municipal sewage disposal system*, other systems may be used, subject to approval by Environmental Health and the appropriate state agencies.

- (10) Fire Protection Requirements. Any *MHP* served by a *public water supply system* shall meet the County's requirements for fire hydrant installation (one (1) hydrant every 1000 feet with a six (6) inch line) or applicable municipality's requirements for fire hydrant installation. For any *MHP* without a fire suppression rated water system, that either has or is adjacent to an adequate permanent surface water supply (100,000 gallon storage in a 50 year drought), the *applicant* shall be required to install a dry fire hydrant system, the type and location of which is to be determined by the County Fire Marshal. An all-weather access road for fire-fighting equipment shall be provided by the *applicant* to this permanent surface water supply. Where the *MHP* is neither served by a *public water supply system* nor has/is adjacent to an adequate permanent surface water supply, such *MHP* shall be thoroughly reviewed by the *TRC* and the *applicant* to determine alternative measures to ensure adequacy of *fire protection*.

SR 4.18 Recreational Vehicle Park

- (8) Sewage System. *Recreational vehicle/park model home* spaces shall not be provided individual hookups to a septic tank, *approved public or community sewage disposal system* or *municipal sewage disposal system*; instead, a central dump station shall be provided for the *use* of all occupants. A *recreational vehicle park* shall connect to a *municipal sewage disposal system* when the system is located within a distance equal to the product of 50 feet multiplied by the number of spaces proposed for the *recreational vehicle park*. If a *park* is located more than 2,500 feet from an existing *municipal sewage disposal system*, such connection shall not be required.

§200A-81. Major Subdivisions

- D. Water Supply **System** and **Sewage Disposal Sewer** System Required. Every *lot* within a *subdivision* shall be served by a *water supply system* and *sewage disposal system sewer system* that is adequate to accommodate the reasonable needs of the proposed *use* and comply with all applicable health regulations. ~~Where a public municipal water supply system or community water supply and/or municipal sewage disposal system sewer systems are proposed, a letter from~~

~~each respective agency must accompany the application, whereby such letter states that there is sufficient capacity to a make connection to the utility. (Moved to Item (B)2). The applicant must provide evidence that water supply system and/or sewage disposal system sewer system plans have received final approvals been approved by the appropriate agency prior to final plat approval (except as noted in item B(1) below). All public or private (community) water supply systems, and sewer systems shall be installed and shall meet the requirements of the Henderson County Department of Public Health or other governmental authorities having jurisdiction thereof. (Moved to Item (B)2). The development plan may be approved contingent on final approval from such agencies; however, the final plat shall not be approved until all such final approvals have been obtained.~~

- (3) Individual Water Supply and Sewer Systems (Well and Septic Tanks). For *subdivisions* in which the *water supply system* and/or *sewage disposal system sewer 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.
- (4) **Municipal Public Water Supply Systems and Municipal and Approved Public Community Sewage Disposal System Sewer 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.

- (5) **Required Connection to a Municipal Water Supply System and Municipal Sewage Disposal System.** A *subdivision* shall be required to connect to a ~~public~~ *municipal water supply system* when the *subdivision* is located within a distance equal to the product of 100 feet multiplied by the number of proposed *lots*; but the maximum distance required for connection shall be 5,000 feet. However, the Approving Authority may require a *subdivision* of 300 or more units connect to a ~~public~~ *municipal water supply system* if the *subdivision* is located within two (2) miles of an existing ~~public~~ *municipal water supply system*.

A *subdivision* shall be required to connect to a ~~public~~ *municipal sewage disposal system sewer* when the *subdivision* is located within a distance equal to the product of 50 feet multiplied by the number of proposed *lots*; but the maximum distance required for connection shall be 2,500 feet. However, the Approving Authority may require a *subdivision* of 300 or more units connect to a ~~public~~ *municipal sewage disposal system sewer* if the *subdivision* is located within one (1) mile of an existing *municipal sewage disposal system sewer*.

Exceptions to this provision may be allowed on the basis of terrain, availability of acquiring *easements*, denial of allocation by the public utility, insufficient capacity of the ~~public~~ *municipal* system or other circumstances which are 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 ~~public~~ *municipal water supply system* or *municipal sewage disposal system* sewer, another system may be used, subject to approval by the appropriate agencies.

- (6) Fire Protection Requirements. Any *subdivision* served by a *public water supply system* shall meet the County's standard of one (1) hydrant per 1000 feet of linear *road* distance. The approving utility agency may impose more stringent *fire protection* requirements where necessary. For any *subdivision* without a fire suppression rated water system, that either has or has access to an adequate permanent surface water supply (100,000 gallon storage in a 50 year drought), the *applicant* shall be required to install a dry fire hydrant system, the type and location of which is to be determined by the County Fire Marshal. An all-weather access *road* for fire-fighting equipment shall be provided by the *applicant* to this permanent surface water supply. Where the *subdivision* is neither served by a *public water supply system* nor has or is adjacent to an adequate permanent surface water supply, such *subdivision* shall be thoroughly reviewed by the reviewing agency and the *applicant* to determine if there are alternative measures to ensure adequacy of *fire protection*. Where deemed necessary and without creating an undue hardship on the *applicant*, the reviewing agency may require the *applicant* to install alternative *fire protection* measures.

LDC Text Amendment 16 (Non-Controversial):

Issue: Requiring connections to municipal water and sewer systems in those areas designated as Rural (RAA) by the Henderson County 2020 Comprehensive Plan is inconsistent with the recommendations of the Comprehensive Plan (See CCP pgs 132-133; items 3 and 10). Add language to the subdivision regulations which would not require the extension of municipal system service into these areas designated as rural.

**Planning Board Recommended
Environmental Advisory Committee Recommended**

Recommendation: Modify §200A-81 (B) (3) as follows.

§200A-81. Major Subdivisions.

- (3). Required Connection to a Municipal Water Supply System and Municipal Sewage Disposal System. A *subdivision* shall be required to connect to a *municipal water supply system* when the *subdivision* is located within a distance equal to the product of 100 feet multiplied by the number of proposed *lots*; but the maximum distance required for connection shall be 5,000 feet. However, the Approving Authority may require a *subdivision* of 300 or more units connect to a *municipal water supply system* if the subdivision is located within two (2) miles of an existing *municipal water supply system*.

A *subdivision* shall be required to connect to a *municipal sewage disposal system* when the *subdivision* is located within a distance equal to the product of 50 feet multiplied by the number of proposed *lots*; but the maximum distance required for connection shall be 2,500 feet. However, 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*.

Exceptions to this provision include *subdivisions* located entirely or partially in those areas designated as Rural (RAA) in the *Comprehensive Plan*. 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*.

Proposed Text Amendments 17 - 22 may generate public comment. Note that text amendments 17 & 21 were not favorably recommended by the Planning Board and should be discussed by the Board:

LDC Text Amendment 17:

Issue: To ensure that an adequate source of potable water is available before a subdivision is built in the RAA (Rural Agricultural Area), require major subdivisions to do one of the following: provide a public community well system where individual wells are not allowed, or provide proof that there is a sufficient water supply to support 60% of the proposed lots in the subdivision. This provision will encourage the use of community wells and will better address water quantity. The Environmental Advisory Committee and the Draft Etowah and Horse Shoe Communities Plan recommended that the County incorporate water supply standards into major subdivision regulations. The Draft Etowah and Horse Shoe Communities Plan states that prior to development plan approval, water supply studies should be incorporated into major subdivision regulations to ensure that adequate water is available for larger subdivisions.

**Planning Board Did Not Recommend
Environmental Advisory Committee Recommended**

Recommendation: Modify §200A-81 (B) (2) as follows.

§200A-81. Major Subdivisions

- B. Water Supply System and Sewage Disposal System Required. Every *lot* within a *subdivision* shall be served by a *water supply system* and *sewage disposal system* that is 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/or *sewage disposal system* plans have received final approvals by the appropriate agency prior to final plat approval (except as noted in item B(1) below).
- (2) Individual Water Supply and Sewer Systems (Well and Septic Tanks). For *subdivisions* in which 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. 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. The use of community wells is recommended, however, if individual wells are proposed, 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.

LDC Text Amendment 18:

Issue: Require all major residential subdivisions proposing 35 or more lots to adhere to one of the following: (1) meet the conservation subdivision standards; (2) apply for a conditional zoning district, or (3) seek a development agreement. This provision will still allow for conventional subdivisions with 35 or more lots, but will require these subdivisions to be approved by the Board of Commissioners as a conditional zoning district or by seeking a development agreement. It is expected that this amendment will make Conservation Subdivisions the preferred way of development.

**Planning Board Recommended
Environmental Advisory Committee Recommended**

Recommendation: Amend §200A-307(D) Formal Review and add a development agreement definition.

§200A-307. Review for Major Subdivisions and Conservation Subdivisions of Thirty-Five (35) to Two Hundred Ninety-Nine (299) Lots

- D. Formal Review. *Major subdivisions of 35 to 299 lots that do not meet the conservation subdivision standards (see §200A-86 Conservation Subdivision (Options)) shall follow the procedures of §200A-308 (Review for Major Subdivisions and Conservation Subdivisions of Three Hundred (300) or More Lots) or seek development agreement approval through the Board of Commissioners.*

The *Subdivision Administrator* shall prepare a recommendation on the application and supply a copy of this recommendation and the recommendation of the *TRC* to the *applicant* before review by the Planning Board. The Planning Board shall take action within 90 days from the date of its first consideration of the application. The *Subdivision Administrator* shall notify the *applicant* (in writing) of the decision by the Planning Board and any conditions imposed on the development within ten (10) business days of the decision. The *Planning Board* may refer any *subdivision* to the Board of Commissioners for review after giving due notice to the applicant. Reasons for such referral may include, but are not limited to, the size of the subdivision, location within the County, impact on the community, impact on infrastructure, or particular environmental features that make this subdivision substantially unique from other proposed subdivisions. The Planning Board may take the following action when reviewing an application:

§200A-359. Definitions.

Development Agreement. An agreement approved by the Board of Commissioners pursuant to the procedures and requirements of NCGS Sections 153A-349.1 through 153A-349.13.

LDC Text Amendment 19:

Issue: To address public safety concerns, emergency vehicle access and road connectivity, no more than 35 lots shall be accessed from a proposed road or series of proposed roads with a single entrance. This means that no more than 35 lots shall be accessed from a dead-end road, cul-de-sac or turnaround. These requirements may be waived where severe topographic issues, steep terrain, or the presence of floodplain would make it impractical to secure an additional access point. These unique circumstances would be determined by the approving authority. This amendment will improve Emergency Services response time by providing alternative points of access and provide for improved traffic flows. Connected neighborhoods will reduce traffic impacts on our major roads.

Planning Board Recommended

Recommendation: Amend §200A-81(C) as follows.

§200A-81. Major Subdivisions

- E. Roads. All new *subdivision lots* shall abut on an approved public or private *road*. If the *tract* to be subdivided is located on both sides of an existing, recorded private *right-of-way* that contains an existing private *road*, the *applicant* shall be required to upgrade such portions of the existing private *road* which are contained on the *tract* that is being subdivided to meet the *road* standards found in this Chapter. **Where a *subdivision* is to contain more than 35 lots the *subdivision* shall provide a minimum of two (2) entrance *roads* except where unique circumstances (including severe topographic conditions, the presence of *unique natural areas*, existing development patterns, or other limiting site conditions) would prevent the addition of a second entrance (the requirement for a second entrance must be specifically waived by the Approving Authority). In addition, no more than 35 lots within a *subdivision* shall be accessed by a dead-end *road*, cul-de-sac or turnaround or a series of dead-end *roads*, cul-de-sacs or turnarounds to access the main entrance(s)/exit(s) for the *subdivision* (except where a stub *road* is proposed as a future connection). Stub road connections do not entitle adjoining property owners access to the *subdivision*. All proposed and/or approved private *roads* may, if accepted into the *public road* system by NCDOT, become public. The *applicant* shall determine at the time of application if the *subdivision roads* are to be public, private or a combination of both.**

LDC Text Amendment 20:

Issue: The current pedestrian facilities requirement is limited to subdivisions with 100 or more lots and a density equal to or greater than 2 units per acre. This requirement does not capture major subdivision with very dense development that may occur in the R1 zoning district, or major subdivision with 100 or more lots that may occur in the R3 and R4 zoning districts and have very low densities. The proposed amendment would clarify the subdivision standards so that all major subdivision with either 100 or more

lots or a density equal to or greater than 2 units per acre provide pedestrian facilities, sidewalks and/or trails.

Planning Board Recommended

Recommendation: Amend §200A-81(Q) as follows.

§200A-81. Major Subdivisions

R. Pedestrian Facilities. It is intended that reasonable pedestrian access is provided for larger *subdivisions* to promote healthy and safe walking environments in the *neighborhoods* of Henderson County.

(1) Pedestrian Facilities Required. All *major subdivisions* with **one (1) of the following:**

- a. 100 or more *lots*, **or with**
- b. A *density* equal to or greater than two (2) units per acre

Shall provide one (1) linear foot of sidewalk or walking trail for every linear foot of improved or newly proposed roadway **within the development parcel or project; does not include off-site improvements.**

LDC Text Amendment 21:

Issue: Add a provision that small accessory wastewater treatment plants would not be permitted in the R3 and R4 zoning districts. The County Comprehensive Plan recommends that these types of uses should not be permitted in the RAA which is predominately made up of the R3 and R4 zoning districts.

**Planning Board Did Not Recommend
 Environmental Advisory Committee Recommended**

Recommendation: Amend §200A-62 Table of Permitted and Special Uses.

§200A-62. Table of Permitted and Special Uses

USE TYPE	GENERAL USE DISTRICT											
	P=Permitted; S=Special Use Permit											
	R1	R2	R2MH	R3	R4	OI	MU	LC	CC	RC	I	SR
3. ACCESSORY STRUCTURES												
<i>Wastewater Treatment Plant, Small Accessory</i>	P	P	P	P	P	P	P	P	P	P	P	3.15

LDC Text Amendment 22:

Issue: Allow an intermediate density of eight (8) units per acre in the Residential One (R1) Zoning District where municipal water and public sewer are available. Allowing, by right, dense development where the infrastructure is present steers growth to areas appropriate for development while also providing for more affordable housing and reducing total infrastructure costs.

Planning Board Recommended

Recommendation: Amend §200A-27(B) to include a provision for “intermediate” density which would be available where both a municipal water supply system and a sewage disposal system (of the following types: municipal, approved public, or approved community) are available to service a property.

§200A-27. Residential District One (R1)

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 §200A-63 (Supplemental Requirements).

Table 2.1. R1 Density and Dimensional Requirements			
(1) <i>Residential Density</i> (units/acre)		(2) Standard	4
		(3) Intermediate	8
		(4) Maximum	16
(5) Yard Setbacks (feet)	<i>Front or Right-of-Way (ROW)</i>	<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:

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

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

$$5 \text{ acres} \times 4 \text{ units per acre} = \underline{\underline{20 \text{ permitted dwelling units}}}$$

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 ($\frac{1}{2}$) 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 multifamily residential *uses* with fewer than five (5) units.
- (3) Intermediate residential density shall be available when individual dwellings would be served by both: (1) a *municipal water supply system* and (2) a *sewage disposal system* (of the following types: municipal, approved public, or approved community) which meet the requirements of applicable local or state authorities having jurisdiction thereof.
- (4) Maximum residential density shall be available to applicants proposing five (5) or more dwellings in any combination of the following unit types (duplexes, triplexes, quadraplexes and multifamily dwellings with five (5) or more units and specifically excluding single-family units) where:
 - a. A total of at least five (5) units would be permitted by standard residential density, and
 - b. Such dwellings are generally served by public or private utility systems which meet the requirements of the Henderson County Department of Environmental Health or other governmental authorities having jurisdiction thereof.
- (5) *Accessory structures* shall be located in *side* or *rear yards* and shall be *setback* a minimum of ten (10) feet from any property line.
- (6) Maximum height may be exceeded in multifamily developments as detailed in §200A-63 (Supplemental Requirements) SR 1.6. (Dwelling, Multifamily, Five (5) or More Units), provided such developments do not exceed 50 feet in height.