

**REQUEST FOR BOARD ACTION**  
**HENDERSON COUNTY**  
**TECHNICAL REVIEW COMMITTEE**

**MEETING DATE:** September 21, 2017

**SUBJECT:** LDC Text Amendment (TX-2017-01)

**PRESENTER:** Autumn Radcliff, Planning Director

**ATTACHMENTS:** 1. Draft Text Amendments

**SUMMARY OF REQUEST:**

The BOC directed staff at its meeting on May 1, 2017 to review the residential zoning districts that allow for a small place of assembly, specifically the R2 zoning district. This request was based on a recent special use permit that was issued for an event barn in the R2 zoning district. Uses allowed with a special use permit (SUP) are not allowed by right, but requires that the Zoning Board of Adjustment (ZBA) hear a quasi-judicial proceeding to determine if the proposed use is appropriate on a specific parcel. This is determined through the ZBA making its findings of facts to determine if the use should be allowed. If approved, the ZBA may require specific conditions for the proposed use.

On June 15, 2017 the Planning Board discussed the issues and voted to appoint a subcommittee of the Planning Board to discuss the item and bring back a recommendation to the Board. On August 17, 2017 the Planning Board reviewed the subcommittee recommendations and directed staff to make some modifications and bring back for Board review in September.

**BOARD ACTION REQUESTED:**

The Land Development Code requires the Planning Board to make a recommendation to the Board of Commissioners on the proposed text amendment.

**Suggested Motion:**

*I move that the Planning Board recommend the Commissioners (approve, deny or approve with modification) the proposed LDC Text Amendment (TX- 2017-01) as discussed and that this amendment is consistent with the County Comprehensive Plan.*

## DRAFT LDC Text Amendment (TX-2017-01) Small Place of Assembly and Residential Uses

**Recommended changes are highlighted in red.**

### **Amendment A:**

**Issue:** The BOC directed staff at its meeting on May 1, 2017 to review the residential zoning districts that allow for a small place of assembly, specifically the R2 zoning district. This request was based on a recent special use permit that was issued for an event barn in the R2 zoning district. Uses allowed with a special use permit (SUP) are not allowed by right, but requires that the Zoning Board of Adjustment (ZBA) hear a quasi-judicial proceeding to determine if the proposed use is appropriate on a specific parcel. This is determined through the ZBA making its findings of facts to determine if the use should be allowed. If approved, the ZBA may require specific conditions for the proposed use.

The Planning Board appointed a subcommittee to review the request. On August 17<sup>th</sup> the Planning Board discussed the subcommittee's recommendations and requested the following modifications to the proposed text amendment.

**Recommendation:** Amend the SR (Supplemental Requirements) for a Place of Assembly (Small and Large) and reduce the number of person's threshold allowed for each use.

### **SR 5.16. Place of Assembly, Large**

- (1) Site Plan. Major *Site Plan* required in accordance with §42-331 (Major Site Plan Review).
- (2) Lighting. *Adequate lighting* shall be placed in areas used for vehicular/pedestrian access including, but not limited to: stairs, sidewalks, crosswalks, intersections, or changes in grade. *Lighting mitigation* required.
- (3) Structure. A *structure* shall be designed to accommodate a minimum of ~~500~~ **251 persons. Persons shall include all event attendees (guests, hired staff, event workers, etc.)**
- (4) Perimeter Setback. ~~Fifty (50)~~ **One hundred (100) feet. No parking shall be allowed within the setback area.**
- (5) Buffer. **A B2 buffer is required per Table 5.2 Buffer Width and Plant Material Requirement.**

### **SR 5.17. Place of Assembly, Small**

- (1) Site Plan. Major *Site Plan* required in accordance with §42-331 (Major Site Plan Review).
- (2) Lighting. *Lighting mitigation* required.
- (6) Structure. A *structure* shall be designed to accommodate ~~a minimum of 40 and a maximum of 499~~ **250 persons. Persons shall include all event attendees (guests, hired staff, event workers, etc.)**
- (3) Perimeter Setback. ~~Fifty (50)~~ **One hundred (100) feet. No parking shall be allowed within the setback area.**
- (4) Buffer. **A B2 buffer is required per Table 5.2 Buffer Width and Plant Material Requirement.**

**Recommendation:** The Planning Board reviewed the other uses allowed in the Residential Zoning districts and recommended the following changes to the Table of Permitted and Special Uses.

Amend Table of Permitted and Special Uses as indicated below.

**§42-62. Table of Permitted and Special Uses**

USE TYPE	GENERAL USE DISTRICT				
	P=Permitted; S=Special Use Permit				
<b>3. ACCESSORY STRUCTURES</b>	<b>R1</b>	<b>R2</b>	<b>R2R</b>	<b>R3</b>	<b>R4</b>
Heliport (Private Accessory)	<del>S</del>	S	S	S	S
Wind Mill/Turbine, Accessory > 40 ft height	<del>S</del>	S	S	S	S
<b>6. BUSINESS, PROFESSIONAL, AND PERSONAL SERVICES</b>	<b>R1</b>	<b>R2</b>	<b>R2R</b>	<b>R3</b>	<b>R4</b>
Urgent Care Clinic	<b>S</b>	<b>S</b>	<b>S</b>	S	S

**Amendment B:**

**Issue:** The Planning Board discussed the need to clarify if changes can be made to a site plan after it has been approved by the TRC or Zoning Board of Adjustment.

**Recommendation:** Add a provision under the major site plan requirements to allow for modifications to an approved site plan. This provision would cap allowed changes to no more than a certain percent increase as to be determined by the Board. Any changes greater than this set percent would require the applicant to submit a revised site plan to the approval authority.

For example, the City of Hendersonville allows modifications up to 10%. The event barn on NC 191 that received a special use permit was permitted to construct a 48 x 64 ft. (3072 sq. ft.) barn per the approved site plan. The applicant constructed a 48 x 72 ft. (3456 sq. ft.). Per this example the following percent increase would have been permitted for the event barn on NC 191.

- 5% - 153.6 sq. ft. increase
- 10% - 307.2 sq. ft. increase
- 15% - 460.8 sq. ft. increase

§42-331. Major Site Plan Review

- B. (4) **Modifications.** Due to, but not limited to, topography and limitations prior and during construction, it may be necessary for an approved site plan to be modified per the approval of the Zoning Administrator. Proposed modifications shall qualify as de minimis if the cumulative effect of such modifications would not increase the established footprint of the structure by more than **(5%, 10% or 15% to be determined by the Board)**. The dimensional requirements for a structure is determined by the height restrictions of the applicable zoning district and square footage of the building footprint as shown on the approved site plan unless otherwise noted.