



CITY OF HENDERSONVILLE
PLANNING BOARD - LEGISLATIVE COMMITTEE
Operations Center - Assembly Room | 305 Williams St. | Hendersonville NC 28792
Tuesday, December 21, 2021 – 3:30 PM

AGENDA

1. **CALL TO ORDER**
2. **APPROVAL OF AGENDA**
3. **Approval of November 16, 2021 Minutes**
[A.](#) **APPROVAL OF NOVEMBER 16, 2021 MINUTES**
4. **OLD BUSINESS**
5. **NEW BUSINESS**
[A.](#) Zoning Text Amendment - Micro-distilleries, Alexandra Hunt, Planner I
6. **OTHER BUSINESS**
7. **ADJOURNMENT**

The City of Hendersonville is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or an accommodation for this meeting please contact the Community Development Department no later than 24 hours prior to the meeting at 828-697-3010.

**Minutes of the Planning Board – Legislative Committee
Virtual Meeting
November 16, 2021**

Members Present: Neil Brown, Bob Johnson, Peter Hanley

Staff Present: Tyler Morrow, Planner II, Lew Holloway, Community Development Director, Matt Manley, Planning Manager, Alexandra Hunt, Planner and Terri Swann, Administrative Assistant III

Start Time: 3:30PM

Adjourned: 4:30PM

Legislative Committee Meeting:

Lighting Ordinance Update:

Lew Holloway, Community Development Director, provided an update on the lighting ordinance. Mr. Holloway stated that the major changes to the lighting ordinance at this point have been simplifying the number of lighting zones to just three zones:

1. Natural Resource Zone
2. Residential Transition Zone
3. Commercial Zone

Mr. Holloway stated that all properties located within the City & ETJ would be assigned to a lighting zone that will have lighting allowances that scale up and down depending on the intensity of the development. Mr. Holloway stated that the goal is to simplify the review process for staff. Mr. Holloway talked about the two review methods – performance method and prescriptive method. Mr. Holloway stated that staff will be proposing to use the prescriptive method rather than the performance method because it is a more straightforward review process. Mr. Holloway discussed the timeline for adoption of the ordinance. Mr. Hanley asked whether upcoming developments should be taken into consideration as far as the timing of passing this ordinance. Mr. Johnson asked whether Planning Board should hold off on hearing this matter until the January 2022 meeting because of the new members what will be on the Board. Mr. Holloway stated that the proposed ordinance language would not be ready for the December 2021 Planning Board meeting anyways. Mr. Manley stated that in the meantime to continue using lighting as conditions until the ordinance is passed. Mr. Brown agreed with Mr. Manley unless the developer on a proposed project does not agree to the lighting conditions it will have an impact on Mr. Brown's vote. Mr. Holloway stated that staff prefers to have a conversation with the developer on the front end before reaching Planning Board about any issues such as lighting.

Zoning Text Amendment – I-1 CZD District Zoning Text Amendment

Lew Holloway, Community Development Director, reviewed a proposed zoning text amendment to the I-1 CZD, Industrial Conditional Zoning District (P21-76-ZTA). Mr. Holloway stated that this is a City initiated zoning text amendment to Article V of the Zoning Ordinance. Mr. Holloway explained that the purpose of this amendment is to allow certain uses which exceed 50,000 square feet to proceed without having to go through the CZD process. Mr. Holloway further explained that the intent is to eliminate obstacles for businesses that are looking to come to Hendersonville. Both staff and committee members reviewed all of the permitted uses in I-1. Mr. Holloway then reviewed the proposed exceptions or proposed allowed uses that would not trigger the CZD process:

- Bottling plants
- Breweries
- Cideries
- Cideries, hard
- Distilleries
- Food processing establishments, limited to dairy products, bakery products, canneries, and beverage products
- Greenhouses and commercial nurseries
- Microbreweries
- Wineries
- Manufacturing (selected industries)

Mr. Manley commented on whether paper manufacturing would be included and if so, to consider that they produce a lot of smell. Mr. Manley also confirmed for the committee members that the proposed permitted uses would still go through Planning Board and City Council review – they would not have to go through a NCM. Mr. Holloway reviewed the city zoning map for current I-1 districts with the committee members. Mr. Johnson inquired whether changing the 50,000 sq ft requirement to 100,000 sq ft would change anything – basically instead of creating the list of uses to just change the number. Both staff and committee members discussed that direction. Mr. Manley looked up the square footage of some existing larger manufacturers in the City and they were well over 100,000 sq ft. Mr. Holloway stated that staff is still working on the language but wanted to see if anything jumped out at the committee members as far as the proposed permitted uses. Mr. Holloway further explained that staff is still working on this draft.

Notice: This meeting was noticed to the public in accordance with all requirements. The meeting was also attended by one local resident and a member of the media.

December 20, 2021

RE: Zoning Text Amendment – Micro-distilleries (P21-83-ZTA Distilleries)

Memorandum

The Planning Staff is in receipt of a Zoning Text Amendment (ZTA) application from M&T Distillery LLC. The applicant is requesting that "micro-distilleries" be added as an allowed use in zoning districts that currently allow microbreweries as either a permitted use or special use subject to the Supplementary Standards under Article 16 of the Zoning Ordinance.

Currently, “distilleries” is a permitted use in only the I-1 (Industrial Zoning District Classification). Staff is recommending that "micro-distilleries" be added to both the definition and supplementary standards for microbreweries. Microbreweries are a permitted use in PCD CZD, I-1, and PMD CZD zoning districts and a special use in C-1, C-2, CMU, GHMU and HMU. Staff is also recommending allowing microbreweries and micro-distilleries as a special use in the CHMU and Urban Village zoning districts.

Analysis:

I. Addition of "micro-distilleries" to current definition of "microbreweries"

Currently, the Zoning Ordinance defines “distilleries” as the following:

“An establishment that engages in the production of spirituous liquors or liquors as defined in North Carolina General Statute 18B-101.”

The North Carolina General Statute 18B-101(14) defines “spiritous liquor” or “liquor” means distilled spirits or ethyl alcohol, including spirits of wine, whiskey, rum, brandy, gin and all other distilled spirits and mixtures of cordials, liqueur, and premixed cocktails, in closed containers for beverage use regardless of their dilution.”

The Zoning Ordinance currently defines "microbreweries" as the following:

"An establishment that engages in the production of malt beverages as defined in North Carolina General Statute 18B-101. Annual production shall be less than 25,000 barrels."

The North Carolina General Statute 18B-101(9) defines “malt beverage” means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage except unfortified or fortified wine as defined by this Chapter, containing at least one-half of one percent (0.5%), and not more than 15 percent (15%), alcohol by volume shall bear a label clearly indicating the alcohol content of the malt beverage.

For some context surrounding annual production amounts for the craft brewers, the Brewer’s Association (the brewing industry’s leading trade group) defines “microbreweries” as a brewery that produces less than 15,000 barrels of beer per year and sell 75% or more of its beer off-site. Other subgroups of the craft beer industry include brewpub, taproom brewery, and regional brewery. For example, Sierra Nevada is considered a regional brewery in that it produces more than 15,000 barrels per year but less than the max 6 million barrels annually. Additionally, most licensed brewers keep their production below 50,000 barrels per year to avoid being forced to use a third-party distributor thus losing control of advertising and a significant part of their product.

When it comes to distilleries however, there is only one distillery type in North Carolina which is reflected in the current Zoning Ordinance language above. Staff verified this information with the Hendersonville Police Department who then reached out to the Assistant Special Agent in Charge, N.W. Corthell of the Alcohol Law Enforcement (ALE) Division for our region. Agent Crothell confirmed that there is no official recognition of a “micro-distillery” or “craft distillery” in North Carolina and therefore there are no references to caps on annual production.

The American Craft Spirits Association (ACSA) which is the only registered national nonprofit trade group representing the U.S. craft spirits industry defines craft spirits as “spirits produced in the U.S. by licensed producers that have not more than 750,000 proof gallons (per 394,317 9L cases) annually.” For example, Two Trees Distillery in Fletcher produces approximately 20 barrels (using the traditional 53 gallon whiskey barrel) of aged product per day with a 1,000 gallon system. This comes out to approximately 386,900 gallons annually. Through our research into existing definitions of distilleries, it was determined that the production of spiritous liquors is typically measured in gallons and not barrels. Additionally, the standard barrel size for spirits is 53 gallons whereas the traditional barrel size for beer is 31 gallons.

Given the lack of current guidance from state law, Staff has proposed the definition for “micro-distilleries” fall in line with the current definition of “microbreweries” as the following:

"An establishment that engages in the production of malt beverages and spiritous liquors as defined in North Carolina General Statute 18B-101. Annual production shall be less than ~~25,000 barrels~~ 775,000 gallons per calendar year." (25,000 x 31 gal = 775,000 gal)

2) Addition of "micro-distilleries" to the Supplementary Standards for "microbreweries" and additional standards taken from Small Scale Manufacturing

Staff is proposing to add “micro-distilleries” to the existing Supplementary Standards for “microbreweries” in Section 16-4-15. Staff is also proposing to add additional standards taken from the supplementary standards for Small Scale Supplementary Standards which were originally modeled after the microbrewery supplemental standards. Specifically, the addition of the square footage limitations for new and existing buildings (standards “e” and “f”) were not included in the original supplemental standards for microbreweries. This would add additional restrictions on size of microbreweries that currently do not exist. However, for context the following Hendersonville microbreweries have the following approximate square footages: Guidon Brewery - 4,000 sq ft; Dry Falls- 5,800 sq ft; Oklawaha- 5,400 sq ft; Triskelion Brewing Co. - 2,500 sq ft and Southern Appalachian Brewery at 7,113 sq ft.

The proposed Supplementary Standards for microbreweries and micro-distilleries are as follows:

16-4-15 Microbreweries and Micro-distilleries.

- a) Shall include one or more accessory uses such as a tasting room, tap room, restaurant, retail, demonstration area, education and training facility or other uses incidental to the brewery or distillery and open and accessible to the public.
- b) Storage of materials used in the manufacturing, processing, and for distribution shall be located entirely within the building.
- c) Shall be designed such that all newly constructed loading and unloading facilities are internal to the site, in service alleys or at the back of the building.

d) The sides and rear yard or setback requirement shall be increased to 25 feet for the C-2 Secondary Business, C-3 Highway Business, GHMU Greenville Highway Mixed Use and HMU Highway Mixed Use Zoning District Classifications.

e) Shipping and receiving needs shall not exceed the equivalent of (1) FHW A Class 8 truck per week.

f) Reuse of an existing building shall not exceed 20,000 square feet of building floor space.

g) New construction shall not exceed 10,000 square feet of all building floor space.

3) Additional Zoning Districts allowing “microbreweries” and “micro-distilleries” as a Use

Currently, the zoning ordinance allows microbreweries as a use in the following zoning districts:

Permitted Use: PCD CZD, I-1, and PMD CZD zoning districts

Special Use (subject to Article 16 Supplementary Standards): C-1, C-2, CMU, GHMU and HMU

Staff is recommended expanding the zoning districts that allow “microbreweries and micro-distilleries” as a special use in CHMU (Commercial Highway Mixed Use) and Urban Village Zoning Districts. The CHMU zoning district classification is intended to encourage a mix of high-density residential development in conjunction with appropriately scaled and compatible commercial development, consisting of community and regional retail sales and services, professional offices, research facilities, restaurants, accommodation services and similar uses.

Similarly, the Urban Village zoning district classification is intended to create mixed-use development that is economically vital, pedestrian-oriented and contributes to the place-making character of the built environment. Additionally, both of these mixed-use zoning district classifications have a focus on additional design standards that are present in the other mixed-use districts (CMU, GHMU and HMU), but are not in C-1, C-2, PCD CZD, I-1 and PMD.