

Zoning Text Amendment for Micro-Distilleries

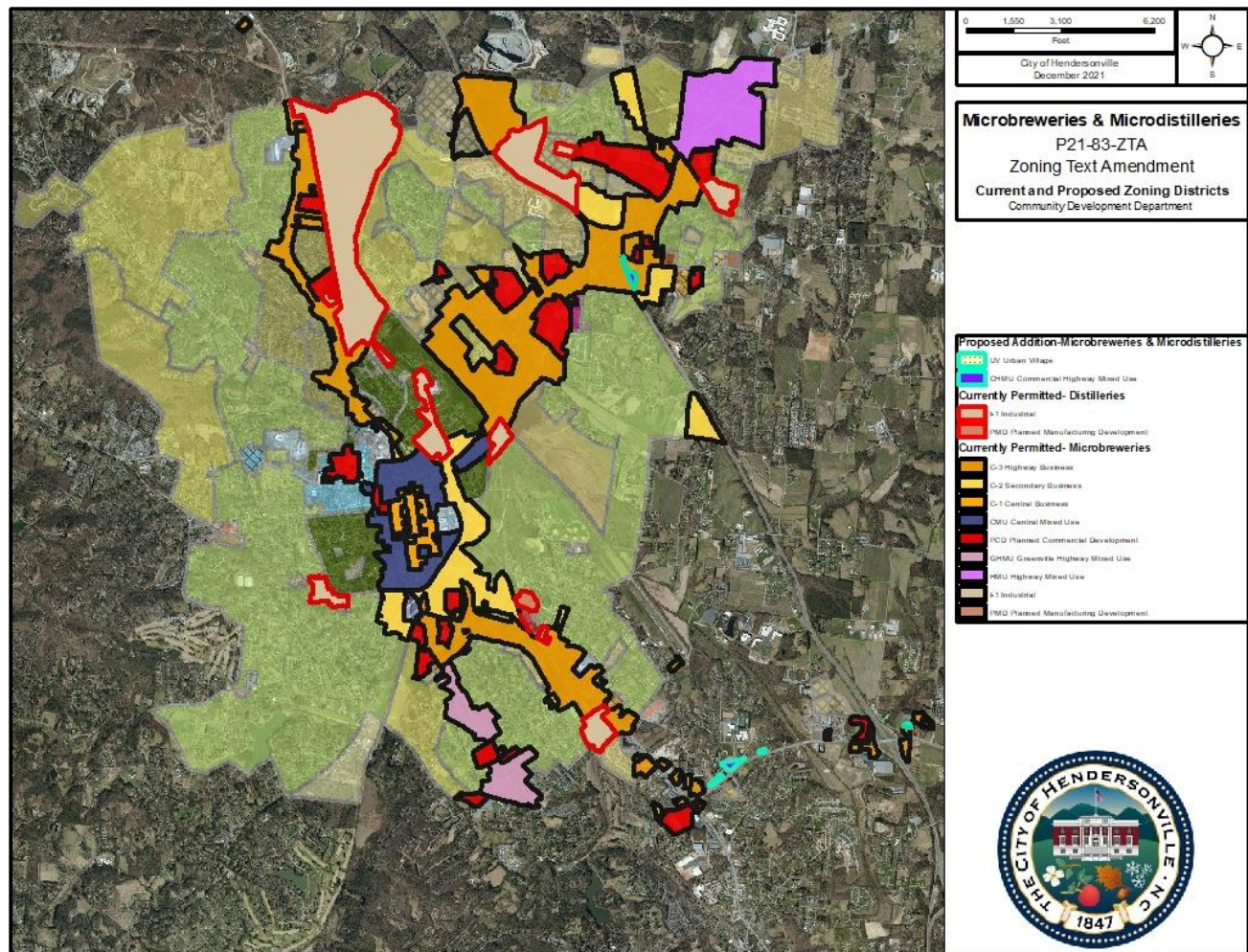
(P21-83-ZTA)

CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

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SUMMARY OF TEXT AMENDMENT

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 a use in zoning districts that currently allow Microbreweries as either a "Permitted Use or a Permitted Use "subject to Supplementary Standards", as outlined in Article 16 of the Zoning Ordinance.

Zoning Districts Permitting "Microbreweries":

As a Permitted Use (not subject to Supplementary Standards): PCD-CZD, I-1, and PMD-CZD

As a Permitted Use subject to Supplementary Standards: C-1, C-2, C-3, CMU, GHMU and HMU

In addition to the applicant's request, Staff is proposing three (3) recommendations:

- 1) That "Micro-distilleries", "Micro-cideries", and "Micro-wineries" be added to the Use, Definition, and Supplementary Standards for "Microbreweries".
- 2) To add additional standards, taken from the Supplementary Standards for "Small Scale Manufacturing", to the existing Supplementary Standards for "Microbreweries".
- 3) To add two (2) additional zoning districts, CHMU and Urban Village, to the zoning districts that already allow Microbreweries as a Permitted Use subject to Supplementary Standards.

STAFF ANALYSIS

1. Addition of “Micro-distilleries,” “Micro-cideries,” and “Micro-wineries” to the current use and definition of “Micro-breweries”

Currently, the Zoning Ordinance defines “distilleries” as, “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 defines “Cideries, hard” as, “an establishment that engages in the production of hard ciders classified as unfortified wine as defined in North Carolina General Statute 18B-101.”

The Zoning Ordinance defines “Wineries” as “an establishment that engages in the production of unfortified wines as defined in North Carolina General Statute 18B-101.” The North Carolina General Statute 18B-101(15) defines “unfortified wine” as “any wine of sixteen percent (16%) or less alcohol by volume made by fermentation from grapes, fruits, berries, rice, or honey; or the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice or honey that is contained in the base wine and produced in accordance with the regulations of the United States.”

Lastly, the Zoning Ordinance currently defines “Microbreweries” as, “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.

Given the lack of current guidance from state law, Staff has proposed the definition for “Micro-distilleries,” “Micro cideries,” and “Micro-wineries” fall in line with the Zoning Ordinance’s current definition of “Microbreweries” as the following:

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

With a definition in place covering all four product types, the “Permitted Use” of “Microbreweries” found in various zoning districts in Chapter 5 of the Zoning Ordinance would then be amended to read as “Microbreweries, Micro-distilleries, Micro-cideries, & Micro-Wineries”.

2. Addition of "Micro-distilleries," "Micro-cideries," and "Micro-wineries" to the Supplementary Standards for "Micro-breweries"

Staff is proposing to add "Micro-distilleries," "Micro-cideries," and "Micro-wineries" to the existing Supplementary Standards for "Micro-breweries" as defined in Section 16-4-15 of the Zoning Ordinance. 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 Micro-breweries. This would add additional restrictions on size of microbreweries that currently do not exist.

The proposed Supplementary Standards for Micro-breweries, Micro-distilleries, Micro-cideries, and Micro-wineries are as follows:

16-4-15 Microbreweries, Micro-distilleries, Micro-cideries and Micro-wineries.

- 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, distillery, hard cidery, or winery 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 permitting "Micro-breweries," "Micro-distilleries," "Micro-cideries," and "Micro-wineries" as a Permitted Use subject to Supplementary Standards

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

Permitted Use (Not subject to Supplementary Standards): PCD CZD, I-1, and PMD CZD zoning districts

Permitted Use (Subject to Supplementary Standards): C-1, C-2, C-3, CMU, GHMU and HMU

Staff is recommending extending the four uses (Micro-breweries, Micro-distilleries, Micro-cideries, and Micro-wineries) into two (2) additional zoning districts, Commercial Highway Mixed Use (CHMU) 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, C-3, PCD CZD, I-1 and PMD.

COMPREHENSIVE PLAN CONSISTENCY ASSESSMENT AND STATEMENT:

The Comprehensive Plan does not have a dedicated chapter on economic development. As such staff looked to understand more broadly the intent of various future land use categories that would be impacted by the proposed Zoning Text Amendment. Future Land Uses that will be impacted by the proposed text amendment include Business Center, Regional Activity Center, Downtown Core, Downtown Support, Urban Institutional & High Intensity Neighborhood. While none of these Future Land Use designations discuss breweries, distilleries, cideries, and wineries explicitly, they all discuss the inclusion of retail, restaurant and office uses as primary and/or secondary uses. These type of land uses are most similar to micro-breweries, micro-distilleries, micro-cideries, and micro-wineries. The supplementary standards for Micro-breweries are intended to provide for a customer facing retail or showroom type space to align this new use with the existing character of these districts.

Chapter 8 establishes the Consistency of this approach under Strategy LU-1.1 which establishes the following; “Encourage infill development and redevelopment in areas planned for high intensity development, as indicated by the “Priority Infill Areas” on Map 8.3a. Further this Action LU-1.1.1 states that “Review zoning standards in High-Intensity Neighborhood, Neighborhood Activity Center, Regional Activity Center, Downtown Core, Downtown Support and Urban Institutional areas and revise as necessary to enable compatible infill projects.

Chapter 4 establishes a goal to “Promote downtown as Hendersonville’s central gathering place and a focal point for niche retailers and entertainment, cultural and civic uses.”

Chapter 7 establishes a strategy (TC-1.1) intended to reduce vehicle miles driven that “Encourage mixed-use, pedestrian friendly development that reduces the need to drive between land uses. As a job creator, businesses such as micro-distilleries, micro-cideries, and micro-wineries can contribute to viable employment within the mixed-use areas highlighted throughout the comprehensive plan.

CONSISTENCY STATEMENT:

The proposed zoning text amendment for “Addition and Definition of Micro-breweries, Micro-distilleries, Micro-cideries, and Micro-winerries with Supplementary Standards to C-1, C-2, C-3, CMU, GHMU and HMU” and the extension of the above-referenced uses to CHMU and Urban Village zoning districts as a Permitted Use subject to Supplementary Standards is consistent with Comprehensive Plan because it:

- 1) Encourages infill development and redevelopment in areas planned for high intensity development.
- 2) Contributes to downtown’s role as the focal point of niche retailers within the city.
- 3) Encourages mixed-use development that reduces the need to drive.
- 4) Contributes to viable employment within the mixed-use zoning districts.

REASONABLENESS STATEMENT:

The text amendment is reasonable and in the public’s interest because:

- 1) It will promote additional diversity of job opportunities within the City of Hendersonville.
- 2) It encourages reinvestment in existing infrastructure and commercial real estate within the City of Hendersonville, supporting a sustainable tax base.
- 3) It reflects adaptation by the City to changing market trends in retail and the craft beverage industry.

LEGISLATIVE COMMITTEE OF THE PLANNING BOARD

Summary of Legislative Committee Action

The proposed text amendment was reviewed in a public meeting with the Legislative Committee of the Planning Board on December 21, 2021. The Committee consisted of two Planning Board members, Neil Brown and Bob Johnson, as well as Planning Division staff. The Committee and staff discussed the background of the proposal from the applicant and the feedback from the Downtown Advisory Board meeting on December 14, 2021. The Committee addressed the concerns from the Downtown Advisory Board expressed about too many establishments in downtown. The Committee felt as though market forces and cost of start-up would limit the widespread expansion of distilleries or cideries and thus prevent any perceived issues of having “too many” in one place. Discussion was had around the term “gallon” referring to “proof gallons” or final product gallons. That clarification was made to refer to final product gallons.

The Committee recommended adding “hard cidery” to the proposal. The Committee was favorable of the recommendation to include distilleries and cideries with the production limits and square footage limits as proposed as well as to expand the Permitted Use subject to Supplementary Standards to the CHMU and Urban Village zoning districts.

DOWNTOWN ADVISORY BOARD (1st Meeting)

Summary of Downtown Advisory Board Action

The proposed Text Amendment was reviewed by the Downtown Advisory Board on December 14, 2021. This meeting was held prior to the Legislative Committee meeting and therefore just discussed micro-distilleries and not the addition of micro-cideries and micro-wineries. The Board discussed the proposed text amendment and expressed concern about the number of micro-distilleries and micro-breweries concentrated in the downtown area. The Board also discussed the concern of the 25,000 barrel count in the definition and commented on the large amount of finished spirits that would yield as well as the size of an operation to produce that many barrels would be too large for downtown. The Board requested that this proposed amendment be placed on the January agenda for further discussion after it was reviewed by the Legislative Committee and Economic Vitality Team.

PLANNING BOARD

Summary of Planning Board Recommendations

Mr. Blatt asked if the Business Advisory Committee looked at this. Mr. Manley stated no, it was not on their agenda. Mr. Blatt felt like this Board would want to weigh in.

The Board discussed adding I-1 to the motion. Mr. Blatt asked if there were any commercial districts that did not allow microbreweries. Mr. Manley stated C-4 did not. He explained this is a neighborhood commercial district and was not added to it. They could add microbreweries to this district if they wanted to.

Planning Board Motion

Ms. Peacock moved the Planning Board recommend City Council approve an ordinance revising the definition, use and supplementary standards of Microbreweries to include Micro-distilleries, Micro-cideries, and Micro-wineries in the C-1, C-2, C-3, CMU, GHMU, HMU, I-1, PCD and PMD zoning and extending this amended use to the CHMU and Urban Village zoning districts as a Permitted Use subject to the Supplementary Standards. Finding that the text amendment is consistent with the Goals, Strategies and Actions for LU-1, LU-10, CR-4, and TC-1 of the City's Comprehensive Plan and that the text amendment is reasonable and in the public's interest to approve the application for the following reasons: 1) It encourages infill development and redevelopment in areas planned for high intensity development. (Goal LU-1) 2) It contributes to downtown's role as the focal point of niche retailers within the city. (Goal CR-4) 3) It encourages mixed-use development that reduces the need to drive. (Goal TC-1) 4) It will promote additional diversity of job opportunities within the City of Hendersonville. 5) It encourages reinvestment in existing infrastructure and commercial real estate within the City of Hendersonville. 6) It reflects adaptation by the City to changing market trends in retail and the craft beverage industry.

Mr. Jones seconded the motion which passed unanimously.

DOWNTOWN ECONOMIC VITALITY BOARD

Summary of Economic Vitality Board Recommendations

The proposed Text Amendment was reviewed by the Downtown Economic Vitality Board during their meeting on January 4, 2022. The Board discussed the

DOWNTOWN ADVISORY BOARD (2nd Meeting)

Summary of Downtown Advisory Board Recommendations

The proposed Text Amendment was reviewed by the Downtown Advisory Board on January 11, 2022. The Board reviewed the updated staff report since the December 14, 2021 meeting. The Board unanimously voted to support the recommendation from the Planning Board.

RESERVED

SUGGESTED MOTION

See Cover Sheet for Suggested Motion including Consistency Statement and Reasonableness Statements.

ATTACHMENTS:

- Planning Board Regular Meeting Minutes
- Draft Ordinance
- Application