



**Town of Cornelius  
Land Development Code Advisory Board**

**Agenda  
August 26, 2019  
5:30 PM  
Room 204**

**Call To Order**

**Determination of Quorum**

**Presentations**

1. Auto Related Uses

**Approval of Minutes**

1. June 24, 2019 Minutes

**Old Business**

1. Noise Update

**New Business**

1. TA 02-19 Breweries
2. Transient Occupancy Update
3. Accessory Structure Placement
4. Open Space

**Election Of Chair & Vice Chair**

**Next Meeting**

**Adjournment**

## REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 26, 2019

To: LDCAB  
From: Wayne Herron, AICP  
Deputy Manager

**Action Requested:**

Staff has received a request asking the Town to once again reconsider the prohibition on auto related uses in the Zoning Code. The applicant will be at the meeting to present items for consideration regarding the issue.

**Manager's Recommendation:**

Hear presentation regarding auto related uses.

**ATTACHMENTS:**

Name:	Description:	Type:
 <a href="#">McIntosh_Letter.pdf</a>	Applicant Letter	Backup Material

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Land Development Advisory Board  
Attn: Cheryl Crawford, Chair  
Address

Re: LDACB Meeting August 26 and Lake Norman Chrysler Dodge Jeep Ram

Dear Cheryl,

The purpose of this letter is to request to be placed on the agenda for the Quarterly Meeting of the Code Advisory Committee (LDACB) on August 26<sup>th</sup>.

Lake Norman Chrysler Dodge Jeep Ram wishes to expand their business and, in the process, desires to consolidate their current business footprint from four (including a leased space on Bailey Road) to two locations that would offer synergy and cohesiveness for the Town of Cornelius. Currently they are operating one location on Torrence Chapel Road and three locations on Highway 21. The Salzmans would be selling the Highway 21 locations as a part of the consolidation. This consolidation plan would create more employment opportunities, a more aesthetically pleasing structure and reduce traffic congestion surrounding the diverging diamond and outlying areas. Jack and Robin Salzman are longstanding Cornelius residents, community contributors as well as owners of the franchise dealership. The Salzmans are recognized in the auto industry as evidenced by numerous awards for volume, growth, business and community partnerships. They are excited about working with the Town of Cornelius on this proposed project. Below are considerations that should bring clarity for the intended direction of the Salzman's venture and business plan.

### **Intended Use of Waltrip Building Highway Commercial Space**

- The proposed multi-faceted space would be used for the following:
  - Charity/Non-Profit – designated community and meeting space for numerous charitable organizations. In addition, the Salzmans would be donating a conditioned transport van upfitted with kennels for transporting dogs and cats.
  - Administrative space – Lake Norman Chrysler Dodge Jeep Ram would move their accounting and other administrative staff to this new location.
  - Carolina Custom – This auto retail accessory business is owned by Lake Norman Chrysler Dodge Jeep Ram and showcases a myriad of products for all types of vehicles. Currently, the shop is located on Highway 21 and the intent would be to move and expand this business at the new location. Carolina Custom retail shop attracts customers from all over the Southeast USA. The auto Accessory business is a \$40 billion dollar industry and Carolina Custom believes it could triple its current business at the new location. These consumers have discretionary spending available for our local restaurants and they are provided a designated loaner vehicle so they can explore the Town of Cornelius and not be confined to spending money only within walking distance.
  - Automobile inventory – The intent is to move the automobile inventory which is currently along Highways 21 and 77 to the new location. This move would consolidate the inventory in a less conspicuous location with the Waltrip site already having an existing visual landscaping buffer. Doing so would result in the same number of vehicles on the site as were there during Waltrip's busiest times. They employed over 300 people that each parked on their site daily, so there will be no difference in the amount of autos parked in this proposed scenario.
  - Vehicle service and detailing – This location would offer additional space for automobile service and vehicle preparation to support dealership growth.
  - Lake Norman Chrysler Dodge Jeep Ram is rapidly expanding their internet operations and the additional indoor square footage will allow the dealership to become an internet leader for franchised dealerships by selling vehicles and auto parts online and have them shipped to the consumer, thereby creating jobs and commerce in Cornelius without adding car traffic of the costumers.

### **Cornelius Community Impact**

- Aesthetics
  - The Waltrip Building offers a more secluded and less visible location than the existing spaces along Highways 21 and 77 and is further enhanced by an existing landscape buffer.
- Traffic
  - The nature of the dealership's operations calls for a non-traditional work and business schedule. For example, service and sales personnel hours are staggered.
  - With 25 sales associates, several technicians and assistants traveling to and from the dealership to the existing Highway 21 locations, there are in excess of 150

trips daily. Typically, there are 300-400 cars on the Highway 21 lots at all times, in addition to 5 mobile mini-storage units.

- The consolidation to Waltrip Building would have a positive impact on West Catawba by reducing traffic between the dealership and existing Highway 21 locations. Currently, employees must travel from the dealership through the diverging diamond which consists of four traffic lights. This move would reduce existing traffic on West Catawba, Highway 21 and at the traffic lights. Further, the impact will assist with the congestion anticipated with the purposed construction for Hwy 21.

- **Financial Impact**

- Maintaining three offsite locations on Highway 21 has proved to be incredibly inefficient. It is believed that productivity would increase by more than 15%, resulting in increased sales. Streamlining the logistics/traffic pattern for the dealership would benefit the Cornelius infrastructure.
- Anticipated dealership growth would provide 30-40 immediate new employment opportunities and potentially more than 50 over time.
- The Waltrip Building has been vacant for many years. The purchase of this additional space takes it off the market, thus lowering inventory and increasing the demand for other space in Cornelius thereby creating more revenue for the town.
- It is anticipated the building would become a regional anchor by generating a wide range of consumers with use of the retail, service and charity/non-profit space. This could be a catalyst for further development of the neglected parcels along Old Jetton Road while also providing more opportunity for use of the vacant restaurant space on Liverpool Road.
- Overall, the new venture would increase revenues and sales taxes with the use of local businesses such as restaurants, grocery stores, salons, coffee shops, retail, etc.

- **Community Contributions**

- This new facility would provide the opportunity for the Salzmans to expand and grow their philanthropic efforts to give back to the community. Their vision has not been fully realized due to lack of space.
- Currently the Salzmans support the efforts of over 20 non-profit organizations that require assistance with financial donations, transportation, meeting space, event space, etc. in order to grow their charities. The Salzmans would be able to support these groups better with this facility and further their vision. These are some of the groups they currently support in our community.
  - Backpacks for foster kids
  - Lake Norman Hospice
  - Cornelius Elementary donors for laptops
  - Hollys Hope
  - Little Smiles
  - Pinky Swear
  - Spay it Forward

- Hope House
- Make-a-Wish
- Wish Society
- Humane Society of Charlotte
- Pat's Place
- Kids First of the Carolina's
- Levine's Children Hospital
- Mooresville Soup Kitchen
- Lake Norman Humane Society
- Cornelius Animal Shelter
- HATS (Helping Animals to Survive)
- Catawba Humane Society
- Veterans & Military outreach
- Walk for PKD (Polycystic Kidney Disease)
- Lake Norman Lucky Cat
- Big Day at the Lake
- Ada Jenkins
- American Red Cross
- Dove House
- Various disaster relief efforts

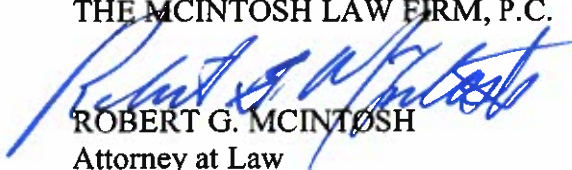
In Summary, our intended uses for the property are as follows:

- Move and expand their accessory retail company, Carolina Custom Wheels, Tires and Accessories to the new building. The company currently employees six individuals and with the additional space intend on tripling the employee count.
- Move their accounting and administrative staff and offices from the dealership to the new location.
- Provide a designated community space for Robin and her team's charity work in the community.
- Operate our new and used vehicle prep and reconditioning center, that serve the dealership and their expanding internet operations.

We appreciate you taking the time to consider this proposed agenda item and look forward to preparing a more detailed presentation and analysis to present at the August 26<sup>th</sup> meeting.

Thank you for your time and consideration.  
Sincerely,

THE MCINTOSH LAW FIRM, P.C.

  
ROBERT G. MCINTOSH  
Attorney at Law  
RGM/egs

## REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 26, 2019

**To:** Chair and LDCAB Members

**From:** Summer Smigelski, Planning Admin.


**Action Requested:**

Review and Approve Minutes

**Manager's Recommendation:**

Approval

**ATTACHMENTS:**

Name:	Description:	Type:
 <a href="#">06242019Minutes_LDCAB.docx</a>	June 24, 2019 Minutes	Backup Material

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Minutes

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**TOWN OF CORNELIUS LDCAB**

June 24<sup>th</sup>, 2019

5:30 PM

**Members Present**

Norris Woody, Vice Chair  
David Gilroy  
Keith Eicher  
Bob Bruton  
Michael Miltich  
Karen Tovar  
Joe Dean  
Laura Pegram  
David Dunn

**Members Absent**

Cheryl Crawford, Chair  
John Hettwer  
Chaz Churchwell

**Staff Present**

Wayne Herron, Deputy-  
Manager/Planning Director  
Becky Partin, Senior Planner  
Summer Smigelski, Admin.

**VISITORS**

See Sign In Sheet.

**DETERMINATION OF QUORUM**

Vice Chair Woody called the meeting to order at 5:33 PM and determined a quorum was present.

**Citizens Comments and Concerns**

Vice Chair Woody asked for anyone wishing to speak to please come forward.

Colin Furcht at 19709 Schooner Dr., spoke on the positive impacts of Boat Yard Eats.

George Marcoccia at 10120 Treetop Lane, expressed his concerns with the last meeting and the negative impact of the noise level that was approved.

Justin Otto at 9220 John Hawks Rd., expressed concerns of the noise level and asked the board to consider changing the db level.

Inaudible at 9220 John Hawks Rd., expressed her concerns on the noise level. She informed the board that the music interrupts her sleep.

Linda Lindfoot at 9704 Washam Potts Rd., informed the board that the bass coming from Boat Yard Eats rattles her windows.

Scott Karriker, son of Linda and Bobbie Karriker at 9516 Westmoreland Rd., expressed the concerns his parents have with the music and bass level.

**APPROVAL OF MINUTES**

The Board unanimously approved the March 25<sup>th</sup>, 2019 Minutes.

Motion made by Commissioner Miltich. Seconded by Ms. Tovar. All in favor, motion approved.

**In Favor:** Ms. Pegram, Mr. Eicher, Mr. Dunn, Commissioner Gilroy  
Ms. Tovar, Vice Chair Woody, Mr. Bruton, Mayor Pro Tem Miltich, Mr. Dean

**Opposed:** None



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**TOWN OF CORNELIUS LDCAB**

June 24<sup>th</sup>, 2019

**Noise Ordinance**

Mr. Herron provided an overview of how the current ordinance is working and an update on potential actions moving forward.

LDCAB has previously heard from the following property owners up until today is:

- Karriker – 9516 Westmoreland Rd.
- Marcocia – 10120 Treetop Lane (Weatherstone)
- Reger – 10124 Treetop Lane (Weatherstone)

The ordinance was Adopted May 6, 2018.

- 5/18/19 – 190518066 – Call was received at 21:36HRS(9:36pm), officer responded with the sound meter to determine if the sound was out of the 100 DB limit per town ordinance, the DB reading was never over 75 DB over a ten-minute period. (Marcoccia and Karriker)
- 5/24/19 – 190524089 – Call was received at 22:13HRS(10:13pm), officer responded with the sound meter to determine if the sound was out of the 100 DB limit per town ordinance, the DB reading at its highest over a ten-minute period was 80.4 DB. (Karriker)
- 6/15/19 – 190615040 – Call was received at 20:05HRS(8:05pm), officer responded with the sound meter to determine if the sound was out of the 100 DB limit per town ordinance, the DB reading was never over 70 DB over a ten-minute period. (Karriker)

The current meter readings show no violations of current ordinance. The highest reading thus far has been 80.4 at the property line of Boat Yard Eats. We do understand that property owners are hearing sound in different ways. City of Asheville is going through a similar experience, on a much larger scale. Cornelius Staff has reached to Asheville Staff to talk about issues of common concern. One of the things they did is they reached out and employed the Community Noise Lab, whose mission is to document and describe the community soundscape and examine its impact on human health- both physically and mentally. They also provide free. Accessible, and dynamic advocacy tools, data, and resources to aid communities in understanding and addressing their specific noise issues. Staff recommends working with this group to resolve the noise issues. No changes to the code currently.

After extensive discussion the board agreed to let staff continue working on the noise issue and bring back with a recommendation.

**Changeable Copy Signs-Entertainment Venues**

Ms. Partin provided an overview on what staff was requested to investigate and what the current code requirements are.

- The owner of Boatyard Eats asked staff to investigate sign opportunities that would allow the venue to announce events.
- Current Code only allows changeable copy signs for school or civic use.
- Sandwich Boards are allowed in TC and NMX, VC, TN, TR-O, HC, and WMX except on NC 115, US 21, West Catawba, Catawba
- In 2015 the US Supreme Court ruled that local governments cannot regulate sign content (Reed v. Town of Gilbert)

The Changeable Copy Sign definition is, a message center or reader-board that is designed so that its informational content or copy can be changed or altered by manual, electrical, electro-magnetic, or electronic means. The changeable copy is counted as part of the sign face.

Current Code Requirements:

Changeable copy signs only allowed for school and civic uses, max. 64 s.f.

- Changeable portion limited to 40% of the sign face. Signs may be double sided.
- The changeable copy must continuously show one message for a minimum of one (1) hour before switching to another message, except for time and temperature.

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**TOWN OF CORNELIUS LDCAB**

June 24<sup>th</sup>, 2019

- Signs shall not dim, flash, fade or scroll and not incorporate moving, rotating, fluttering, blinking or flashing elements, animation, video or audio.
- The sign surround shall be clad in brick, stone or stucco matching the principle building.
- Electronic Signs shall only be affixed to ground mounted signs.
- All non-conforming signs on the property where electronic sign is proposed must be removed prior to electronic sign installation.
- Changeable copy messaging space may not be sold to commercial enterprises.
- Signs operate only 6:00 AM - 11:00 PM.
- Lighting, daytime or nighttime, must be automatically adjustable according to ambient lighting conditions, safe for passing motorists and subject to approval of the Director of Planning, such lighting approval being discretionary on due consideration of public safety, aesthetics, site conditions, functionality and any other factors potentially affecting the public interest and safety.

**Staff Recommendation:**

- Continue to allow for schools and civic uses. No changes.
- Also allow changeable copy signs for approved entertainment venues.
- Add definition for Entertainment Venue
- Allow only one changeable copy ground mounted sign per parcel or one changeable copy wall sign per building, but not both on the same parcel. If it is part of a ground mounted sign, this shall not increase the number of ground mounted signs, it shall be incorporated into any existing or planned ground sign for the site.
- Electronic display signs shall display only non-moving text and images with changes alternating no less than one hour, and text shall not scroll, flash, blink, fade, dim, or otherwise move.
- Only allow on legal conforming signs.

After discussion the board agreed to defer this issue.

Motion made by Mr. Bruton. Seconded by Mr. Dunn. Six in favor, one opposed, motion approved.

**In Favor:** Ms. Pegram, Mr. Eicher, Mr. Dunn, Commissioner Gilroy  
Ms. Tovar, Vice Chair Woody, Mr. Bruton, Mayor Pro Tem Miltich, Mr. Dean

**Opposed:** None

**TA 02-19 Breweries**

Staff will bring back next meeting.

**Next Meeting**

Monday, August 26<sup>th</sup>, 2019

**Election of Chair & Vice Chair**

Defer to next meeting.

**Adjournment**

Mr. Dunn made a motion to adjourn the meeting at 6:51 pm. Mr. Eicher seconded. All in favor and motion approved.

**In Favor:** Ms. Pegram, Mr. Eicher, Mr. Dunn, Commissioner Gilroy  
Ms. Tovar, Vice Chair Woody, Mr. Bruton, Mayor Pro Tem Miltich, Mr. Dean

**Opposed:** None

## REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 26, 2019

To: LDCAB Members

From: Becky Partin

Senior Planner

**Action Requested:**

Over the last month, staff has measured ambient sound levels at two Locations in Town:

- Westmoreland @ US Hwy 21
- Westmoreland @ West Catawba

The purpose of this exercise was to compare the average ambient sound level to the current noise ordinance decibel level limits to determine if any changes to the ordinance are warranted.

Staff will present findings of the ambient noise level monitoring exercise.

**Manager's Recommendation:**

Discuss findings and determine course of action.

**ATTACHMENTS:**

Name:	Description:	Type:
No Attachments Available		

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## REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 26, 2019

To: LDCAB Members  
From: Becky Partin  
Senior Planner

### Action Requested:

On May 30, 2019 the Governor signed the "Craft Beer Distribution and Modernization Act" into law. The law allows breweries to produce and sell up to 100,000 barrels annually.




In accordance with the new law, staff is recommending changes to the Land Development Code:

- Modify the definition of a microbrewery (Chapter 2) to be an establishment where up to 100,000 barrels of beer and malt beverages are made on the premises and sold/distributed. The current limit is 15,000 barrels.
- Modify the definition of a large brewery (Chapter 2) to be an establishment where 100,000 or more barrels of beer and malt beverages are made on the premises and sold/distributed.
- Remove large brewery as a use allowed in Business Campus (Chapter 5).

### Manager's Recommendation:

Review proposed changes and make recommendation.

### ATTACHMENTS:

Name:	Description:	Type:
 <a href="#">HB_363.pdf</a>	House Bill 363	Backup Material
 <a href="#">Ch_02_Definitions.pdf</a>	LDC Ch 2 - Definitions	Backup Material
 <a href="#">CH_05_Zoning_Use_Regulations-Use_Table.pdf</a>	LDC Ch 5 Use Table	Backup Material

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019**

**SESSION LAW 2019-18  
HOUSE BILL 363**

AN ACT TO CONFIRM THE STATE'S SUPPORT OF THE THREE-TIER SYSTEM FOR DISTRIBUTION OF MALT BEVERAGES AND THE FRANCHISE LAWS, TO MAKE ADJUSTMENTS TO MODERNIZE THE EXEMPTIONS TO THE THREE-TIER SYSTEM, AND TO PROMOTE THE GROWTH OF SMALL AND MID-SIZED INDEPENDENT CRAFT BREWERIES.

Whereas, the General Assembly reaffirms its support of the Beer Franchise Law and the three-tier system for the distribution of malt beverages and finds that the Beer Franchise Law and the three-tier system does all of the following:

- (1) Promotes consumer choice and product variety by providing a platform that enables new malt beverage products to come to market that might not otherwise be available to the consumer. These laws encourage wholesalers to make investments in their businesses necessary to expand distribution of new products and to allow large and small breweries alike an opportunity to enter the market through independent distribution. Wholesaler investments include adding resources such as warehouses, personnel, vehicles, equipment, merchandise, and marketing. Consumers have access to an exceedingly wide array of malt beverage products, unlike other industries that foster closed distribution networks and vertical integration.
- (2) Promotes the growth of the craft beer industry by providing suppliers with access to markets outside of the brewery. Brewers that use wholesalers are able to instantly access and utilize a wholesaler's established infrastructure in markets they may not otherwise be able to enter. Smaller breweries further benefit because wholesalers are able to act independently to carry all brands, from large and small suppliers. The goal of these laws is to allow brewers of all sizes to fairly compete in the marketplace and to access retailers of all sizes.
- (3) Helps ensure that the industry, as a whole, complies with the alcohol laws of this State. A wholesaler must remain independent and free from unfair conduct to promote responsible sales and marketing practices. Wholesaler independence also promotes and maintains fair dealing among industry participants. Ultimately, these measures protect consumers and the public from abuses that might occur absent the three-tier system.
- (4) Promotes a vibrant marketplace that carefully balances fair competition with health and public safety concerns. The Beer Franchise Law and the three-tier system ensure that all three tiers operate independently and on a level playing field so that no one participant or sector of the industry becomes too dominant over the others. These laws allow for fair checks and balances in the beer industry. Wholesaler independence further creates a transparent and accountable distribution system that assists in identifying improper marketing practices and potentially unsafe products when issues arise and provides brewers that engage a wholesaler with an established means to access new markets.



- (5) Prevents vertical integration of the manufacturing, distribution, and retail tiers. This still occurs in other countries today where adverse health and public safety effects are observed. The historical three-tier system model incorporated a deliberate regulatory structure that prevents monopolization. However, as the number of beer industry participants has grown substantially, it is necessary to make important adjustments to the three-tier system to promote the overall success of the beer manufacturing industry in North Carolina by recognizing the different stages of brewery development.
- (6) Assists in collecting excise taxes, particularly from nonresident suppliers. While self-distributing resident breweries are required to remit excise taxes directly to the Department of Revenue, wholesalers collect and remit the excise tax on malt beverages on behalf of resident and nonresident suppliers to the Department of Revenue, totaling approximately \$140 million in excise taxes each year to the State.
- (7) Promotes local regulatory control, temperance, and moderate consumption of malt beverages. The three-tier system in particular incorporates features to promote healthy competition in the marketplace while minimizing overly-aggressive marketing practices, such as limits on quantity discounts, requirements of nondiscriminatory treatment among wholesalers and retailers, and limits on advertising and promotional materials. The three-tier system also provides clear chain of custody for products in distribution, which enables law enforcement to easily track products in the marketplace when issues arise.
- (8) Provides a vital platform that promotes product safety for consumers. Malt beverage distributors invest heavily in infrastructure, such as modern warehouses and vehicles, that maintain product integrity during distribution. There are also strict record-keeping requirements, which enable wholesalers to readily track malt beverage products sold in the market for prompt return in the event of a product recall.
- (9) Encourages wholesalers, under the Beer Franchise Law, to invest capital and labor for suppliers of all sizes, large and small, to expand into new markets with new products. Unfair or arbitrary termination is prohibited, but suppliers who are subject to the Beer Franchise Law are still afforded the ability to terminate a distribution agreement for good cause. The Beer Franchise Law inhibits forced consolidation among wholesalers. The three-tier system also affords small retailers the same market access opportunities to the same wide selection of brands that other large-scale retailers have, and on equal terms.

Whereas, the General Assembly also reaffirms its support of the craft beer industry and makes the following findings:

- (1) The current small-brewery provisions of Chapter 18B of the General Statutes were intended to foster the growth of small craft breweries while simultaneously protecting wholesalers from the risk of economic uncertainty. Since the adoption of those provisions, however, the craft beer industry has seen exponential growth. The craft beer industry now provides a significant source of high-quality manufacturing and service employment and wages and generates significant tax revenue for the State. In addition, the growth of the craft beer industry has resulted in significant positive secondary impacts on the economy through increased business to a myriad of suppliers to the craft breweries, resulting in even greater employment and tax revenue for the State's citizens.
- (2) It is in the best interest of the State to continue supporting the entrepreneurial spirit and economic growth driven by the craft beer industry. Yet it remains

vital to preserve the integrity of the State's three-tier system. Today, mid-sized independent breweries possess only a fraction of the malt beverage market in light of increased consolidation and globalization of large suppliers. Consequently, the growth of these mid-sized independent breweries promotes economic development, employment and wages, and significant tax revenue without the same risks of harm that the three-tier system is designed to minimize.

- (3) In view of these new market realities, the existing small brewery provisions of Chapter 18B of the General Statutes warrant revision. Specifically, recognition for a new category of breweries, Mid-Sized Independent Breweries, is needed to reflect the market's evolution, foster the continued growth of the craft beer industry, promote consumer choice, ensure access to market, and promote stable and healthy competition in the malt beverage industry in this State. The following legislative enactments are expressly intended to further these purposes.

Whereas, the General Assembly finds that regulation of the malt beverage industry and the objectives sought to be achieved by this act fall squarely within the authority granted to the State by the 21st Amendment to the United States Constitution and the inherent police powers of this State; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 18B-100 reads as rewritten:

**"§ 18B-100. Purpose of Chapter.**

This Chapter is intended to establish a uniform system of control over the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages in North Carolina, and to provide procedures to insure the proper administration of the ABC laws under a uniform system throughout the State. This Chapter shall be liberally construed to the end that the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages shall be prohibited except as authorized in this Chapter. If any provision of this Chapter, or its application to any person or circumstance, is determined by a court or other authority of competent jurisdiction to be invalid or unconstitutional, such provision shall be stricken and the remaining provisions shall be construed in accordance with the intent of the General Assembly to further limit rather than expand commerce in alcoholic beverages, and with respect to malt beverages, unfortified wine, and fortified wine, the remaining provisions shall be construed to enhance strict regulatory control over taxation, distribution, and sale of alcoholic beverages through the three-tier regulatory system and the franchise laws imposed by this Chapter.

Except as provided in this Chapter, local ordinances establishing different rules on the manufacture, sale, purchase, transportation, possession, consumption, or other use of alcoholic beverages, or requiring additional permits or fees, are prohibited."

**SECTION 2.** G.S. 18B-1104(a)(8) reads as rewritten:

- "(8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale ~~only up to 50,000 barrels of malt beverages manufactured by the brewery.~~ brewery per year to unaffiliated retail permittees. The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than ~~25,000–100,000~~ barrels of malt beverages produced by it per year. The barrelage limitations set forth in this subdivision apply regardless of the number or type of permits that may be issued to a brewery under this Chapter. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the brewery, and malt beverages produced under

subdivision (6a) of this subsection, at not more than three other locations in the State, where the sale is legal, upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision under a different trade name than that used at the brewery shall also offer for sale at that location a reasonable selection of competitive malt beverage products. A sale at any additional retail location under this subdivision shall not be considered a wholesale sale for the purposes of Article 13 of this Chapter. Except as provided in G.S. 18B-1116(b), the Commission shall have no authority to grant an exemption to or otherwise allow a brewery permittee more than the three additional retail locations authorized by this subdivision. Malt beverages manufactured by a supplier permittee that owns five percent (5%) or more of a brewery permittee acting under the authority granted in this subdivision shall be included in determining whether the brewery permittee complies with the barrelage limitations set forth in this subdivision."

**SECTION 3.** G.S. 18B-1116 reads as rewritten:

**"§ 18B-1116. Exclusive outlets prohibited.**

...

(b) Exemptions. – The Commission may grant exemptions from the provisions of this section. Any exemption entered by the Commission in which any brewery or any officer, director, or affiliate of the brewery has a direct or indirect financial interest in the business of any retailer beyond the number of additional retail locations authorized by G.S. 18B-1104 shall prohibit the brewery's malt beverages from being sold to or purchased by that retailer. In determining whether to grant an exemption, the Commission shall consider the public welfare, the quantity and value of articles involved, established trade customs not contrary to the public interest, and the purposes of this section.

...."

**SECTION 4.** G.S. 18B-1300 reads as rewritten:

**"§ 18B-1300. Purpose.**

Pursuant to the authority of the State under the Twenty-First Amendment to the United States Constitution, the General Assembly finds that regulation of the business relations between malt beverage manufacturers and importers and the wholesalers of such products is necessary to:

- ...
- (5) Prevent unfair or unlawful trade practices by enabling wholesalers to refuse to participate in such practices without fear of arbitrary or unlawful retribution from suppliers.
  - (6) Provide wholesalers with rights and remedies in addition to those existing by contract or common law.
  - (7) Govern all agreements between suppliers and wholesalers, including any renewals or amendments.
  - (8) Protect wholesalers against unfair treatment by suppliers.
  - (9) Preserve investments made by wholesalers in franchise agreements through minimization of arbitrary termination.
  - (10) Promote consumer choice by ensuring an independent wholesale distribution tier that enables wholesalers to distribute competing products of other suppliers.
  - (11) Prevent vertical integration of the malt beverage market."

**SECTION 5.** G.S. 18B-1305(a1) reads as rewritten:

"(a1) Termination by a Small Brewery. – A brewery's authorization to distribute its own malt beverage products pursuant to G.S. 18B-1104(a)(8) shall revert back to the brewery, in the absence of good cause, following the fifth business day after confirmed receipt of written notice



of such reversion by the brewery to the wholesaler. The brewery shall pay the wholesaler fair market value for the distribution rights for the affected brand. For purposes of this subsection, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at the time the self-distribution rights revert back to the brewery, after each party has been provided all information relevant to the transaction. This subsection only applies to a brewery that sells to consumers at the brewery, to wholesalers, to retailers, and to exporters fewer than 25,000 barrels of malt beverages produced by it per year. Malt beverages manufactured by a supplier permittee that owns five percent (5%) or more of a brewery permittee shall be included in determining whether the brewery permittee complies with the barrelage limitations set forth in this subdivision. For purposes of this subsection, the term "barrel" is as defined in G.S. 18B-1104."

**SECTION 6.** If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

**SECTION 7.** This act does not apply to any exemption order or amendment thereto entered by the Alcoholic Beverage Control Commission prior to the effective date of this act, or to any such exemption order or amendment that is renewed or reissued by the Commission after the effective date of this act.

**SECTION 8.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2019.

s/ Daniel J. Forest  
President of the Senate

s/ David R. Lewis  
Presiding Officer of the House of Representatives

s/ Roy Cooper  
Governor

Approved 1:35 p.m. this 30<sup>th</sup> day of May, 2019

### **Brewery, Large**

An establishment where beer and malt beverages are made on the premises at an annual rate of ~~15~~100,000 or more barrels (~~~465,000 gallons~~) per year and may contain a taproom



### **Brewery, Micro**

An establishment where beer and malt beverages are made on the premises and then sold or distributed, and which produces less than ~~15~~100,000 barrels (~~~465,000 gallons~~) per year. The brewer may sell to a retailer or directly to a customer.

## CHAPTER 5: ZONING & USE REGULATIONS

**P - Permitted By Right**

**PC - Permitted w/ Supp.**

**Conditions**

**S -Special Use Permit Required**

**CZ - Conditional Zoning Approval  
Required**

**A - Accessory Use Only**

**AC - Accessory w/ Supp.  
Conditions**

<u>Use Category</u>	<u>RP</u>	<u>GR</u>	<u>NR</u>	<u>NMX</u>	<u>WMX</u>	<u>TC</u>	<u>VC</u>	<u>HC</u>	<u>BC</u>	<u>CO</u>	<u>IC</u>
Adult Establishment*								CZ			
Agricultural Uses	P										
Animal Hospital and Boarding & Grooming Service (no outdoor kennels)				P		P	P	P			P
Animal Hospital (w/outdoor kennel)								CZ			CZ
ATM (Automated Teller Machine)				AC	AC	AC	AC	AC	AC	AC	AC
Automobile, Truck, Motorcycle, Boat, Manufactured Home, Recreational Vehicle Repair & Service*											
Automobile, Recreational Vehicle, Boat & Tractor Trailer Parking/Storage*											
Automobile, Truck, Motorcycle, Boat, Manufactured Home, Recreational Vehicle Sales & Rental*											
Bar				A	AC	A	A	A	A	A	A
Bed & Breakfast Inn	PC		PC	PC	PC	PC	PC				
Brewery, Large (100,000+ barrels)									PC		PC
Brewery, Micro (up to 100,000 barrels)				CZ	CZ	PC	PC	PC	PC	PC	PC
Bus Stop Shelter				PC	PC	PC	PC	PC	PC	PC	PC
Car Wash – Automatic & Self Service								CZ			
Cemetery/Columbarium	AC	AC	AC	AC	AC	AC	AC	AC	AC	AC	AC
Child Care/Preschools				PC	AC	PC	PC	PC	PC	PC	
Civic*	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	
Commercial, Retail & Service Uses 0 - 9,999 square feet				P	P	P	P	P	P	P	
Commercial, Retail & Service Uses 10,000 - 29,999 square feet				CZ	CZ	P	P	P	P	P	
Commercial, Retail & Service Uses 30,000 - 49,999 square feet				CZ	CZ	CZ	CZ	P	P	P	
Commercial, Retail and Service Uses 50,000+ square feet						CZ	CZ	CZ	CZ	CZ	
Convenience Store							PC	PC	PC	PC	
Country Club*	CZ	CZ	CZ		CZ			CZ			
Cruise/Excursion/Dinner Boat				PC	AC		PC				

## CHAPTER 5: ZONING & USE REGULATIONS

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Distribution/Wholesale									P		P
Drive-Through Facilities (Excluding Restaurants)				PC	PC	PC	PC	PC	PC	PC	PC
Duplex			PC	PC							
Dwelling, Manufactured Home, Class A	PC										
Dwelling, Multi-Family*				CZ			CZ			CZ	
Dwelling, Single-Family	P	P	P	P						CZ	
Essential Services, Class I & Class II	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
Essential Services, Class III											CZ
Essential Services, Class IV	CZ	CZ	CZ	P	P	P	P	P	P	P	P
Events/Gathering Facility, Indoor				CZ	CZ	CZ	CZ	P	P	P	P
Events/Gathering Facility, Outdoor	CZ			CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
Firing Range (Indoor only)											CZ
Funeral Homes/Crematory				PC			PC	PC			
Golf Course	CZ	CZ						CZ			
Golf Driving Range	AC	AC						PC			
Golf, Miniature				CZ	P	P	P	P			
Greenways and Trails	P	P	P	P	P	P	P	P	P	P	P
Home Occupation	AC	AC	AC	AC	AC	AC	AC				
Hospital								CZ	CZ	CZ	
Hotel, Motel, Inn				CZ	CZ	CZ	CZ	PC	PC	PC	
Innovative Master Planned Development	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
Kennel*	CZ							CZ			CZ
Manufacturing, Heavy											PC
Manufacturing, Light									P	P	P
Mining/Fracking/Quarry Operations											
Mini-Warehouse/Storage											
Mixed Use Building				PC	PC	PC	PC				
Nightclub*					CZ	CZ	CZ	CZ	CZ	CZ	
Nursery (wholesale only)	CZ										
Office				P	P	P	P	P	P	P	A
Park	P	P	P	P	P	P	P	P	P	P	P
Park & Ride Facility				CZ		PC	PC	PC	PC	PC	PC
Parking Area and/or Facility	AC	AC	AC	AC	AC	CZ	AC	AC	AC	AC	AC
Private Club					PC	PC		PC			
Recreation Center, Public (0 – 14,999 square feet)				P		P	P	P	P	P	P

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Recreation Center, Public (15,000+ square feet)				CZ		P	P	P	P	P	P
Recreation Facilities	CZ	CZ	CZ	CZ	PC	PC	PC	PC	AC	AC	PC
Rental Cottages	AC	AC	AC	AC							
Residential Care Facility	PC	PC	PC	PC							
Residential Care Home	PC	PC	PC	PC							
Restaurant, Drive Through							PC	PC			
Restaurant, Non-Drive Through				P	P	P	P	P	P	P	
Restaurant, Brewpub				CZ	PC	PC	PC	PC	PC	PC	
Salvage											
School, Elementary, Middle, Senior High and College (public & private)*	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	
School, Vocational*				CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
Small Wireless Facility* (Wireless Facility, Small)	S	S	S	S	S	PC	PC	PC	PC	PC	PC
Storage, Outdoor	AC	AC	AC					AC			AC
Subdivision, Conservation Rural*	CZ										
Subdivision, Conservation Low*	CZ										
Subdivision, Conservation Medium*	CZ										
Subdivision, Family	PC										
Subdivision, Farmhouse Cluster	PC										
Subdivision, Major	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
Subdivision, Minor	P	P	P	P	P	P	P	P	P	P	P
Taproom				AC	AC	AC	AC	AC	AC	AC	AC
Traditional Neighborhood											
Transient Occupancy	PC			PC		PC	PC				
Transient Occupancy in multi-family buildings only		PC	PC								
Warehouse									A		P

\* See Chapter 6 for specific conditions.

## REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 26, 2019

**To:** LDCAB Members  
**From:** Wayne Herron, AICP  
Deputy Town Manager/Director of Planning

**Action Requested:**

Staff will provide a legislative update.

**Manager's Recommendation:**

Hear Update

**ATTACHMENTS:**

Name:	Description:	Type:
No Attachments Available		

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## REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 26, 2019

To: LDCAB Members  
From: Becky Partin  
Senior Planner


**Action Requested:**

The Planning Department received the attached request to consider an amendment to the Land Development Code to allow accessory structures in the front yard - specifically sheds. The property owner states that the front yard of lakefront lots is the lake side, making the the street side of the lot the rear yard - according to the property owner.

**Manager's Recommendation:**

Discuss and provide direction to staff.

**ATTACHMENTS:**

Name:	Description:	Type:
 <a href="#">Shed_placement.pdf</a>	Shed Placement Request	Backup Material

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April 18, 2019

To Whom It Concerns:

This letter is a request to consider an amendment to the Cornelius Town Land Development Code specifically with regard to Single Family Districts (5.5.2 page 5-13). The ordinance specifies the building "shall be constructed in the rear yard only."

While I understand the reasoning for such an ordinance I maintain that such a "one size fits all" ordinance does an injustice in certain situations. My little outbuilding was legally permitted in 2016 and is adjacent to an outbuilding in my front yard which has been there since around 1978 and is grandfathered in with regard to location in my front yard. Recently I was informed by the Town of Cornelius that the permit was improperly drawn by the firm that built the building. Since I live on the lake my "front yard" has always been referred to as the lake side and the "back yard" as the street side. I realize that front is legally designated by the street side. Several people from the planning office have been out to look at my situation, but have been unable to make any accommodation or exception to this ordinance.


There are many outbuildings in this neighborhood that have been built without the permitting process that I did and are waived since they have been in front yards for a period of five years and are thus grandfathered in.

Even if I wished to build a detached garage the ordinance maintains that it would have to be built in my back yard (thus on the lake side).

I understand that technically I am in violation of the town ordinance, but through no overt action on my part to evade the legal permission to build the structure. Due to the "one size fits all" ordinance I am now in a position of incurring the expense and inconvenience of relocating a structure that is not even visible from the street. Those taxpayers who live on the lake pay some of the highest real estate taxes in the community. It would seem that the powers that be would at least consider a reassessment of the ordinance or a waiver for my building to stay where it is.

Thank you for your consideration of this issue. I would appreciate acknowledgement of action you take with regard to my request.

Respectfully,



Donna G. Waters  
20536 Lagoon Drive  
Cornelius, NC 28031



## REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 26, 2019

To: LDCAB Members

From: Becky Partin

Senior Planner

**Action Requested:**

Staff was asked to review Open Space requirements for potential changes that may result in higher quality and larger open spaces in new developments.

**Manager's Recommendation:**

Review findings and provide direction to staff.

**ATTACHMENTS:**

Name:	Description:	Type:
No Attachments Available		

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