

CITY OF HIGH POINT

AGENDA ITEM



Title: Text Amendment 19-04
(City of High Point)

From: Lee Burnette, Planning & Development
Director

Meeting Date: October 7, 2019

Public Hearing: Yes

Advertising Date: September 25, 2019 and
October 2, 2019

Advertised By: Planning & Development

Attachments: A. Planning and Zoning Commission Recommendation
B. Staff Report
C. Text Amendment Ordinance

PURPOSE:

A request by Matthew Rogers to amend the City of High Point Development Ordinance, Section 4, Uses, to add *Bar or nightclub, Major or Minor* as a use, and the addition of *Bar or nightclub, Minor*, as a permitted use in the Limited Business district.

BACKGROUND:

The staff report and the Planning & Zoning Commission's recommendation are enclosed.

BUDGET IMPACT:

There is no budget impact.

RECOMMENDATION / ACTION REQUESTED:

- A. Staff recommended ***approval*** of this request as outlined in the attached staff report.
- B. On September 24, 2019, a public hearing was held before the Planning and Zoning Commission regarding Text Amendment 19-04. The Planning & Zoning Commission recommended ***approval*** of this request, as outlined in the staff report and recommended by staff, by a vote of 6-0.

PLANNING AND ZONING COMMISSION RECOMMENDATION

City of High Point

Text Amendment 19-04

At its September 24, 2019 public hearing, the Planning and Zoning Commission reviewed a request to amend the City of High Point Development Ordinance, Section 4, Uses, to add *Bar or nightclub*, Major or Minor as a use, and the addition of *Bar or nightclub, Minor*, as a permitted use in the Limited Business district. All members of the Commission were present except for Mr. Ray Wheatley and Mr. Mark Walsh. Mr. Chris Andrews, Development Administrator, presented the case and recommended approval of the request as outlined in the staff report.

Speaking on the request:

Matthew Rogers, applicant, 2209 N. Centennial Street, High Point, spoke in favor of the request.

Planning & Zoning Commission Action

Text Amendment

The Commission recommended *approval* of Text Amendment 19-04, as recommended by staff, by a vote of 6-0.

Consistency & Reasonableness Statements

The Commission voted 6-0 to approve the following statement: That the request is consistent because this text amendment is neither consistent or inconsistent with adopted policy guidance. Furthermore, the proposed amendment is reasonable in that it provides a more consistent set of allowable principal uses for the LB District.

**CITY OF HIGH POINT
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT
TEXT AMENDMENT CASE TA-19-04
September 24, 2019**

Request	
Applicant: Matthew Rogers	Affected Ordinance Sections: Section 4.1.9. <i>Principal Use Table</i> Section 4.2.6.C.2 <i>Commercial Use Classification, Eating Establishments, Use Types</i> ; Section 4.3.4.C.1 <i>Use Standards, Commercial Uses, Eating Establishments, Bar or Nightclub</i>
Proposal: To amend the City of High Point Development Ordinance, Section 4, Uses, to add <i>Bar or nightclub, Major or Minor</i> as a use, and the addition of <i>Bar or nightclub, Minor</i> , as a permitted use in the Limited Business district.	

Background

The applicant owns and operates a retail smoke shop located at 2209 North Centennial Street. The property is within the Limited Business (LB) zoning district. Currently, the development ordinance does not allow the operation of a bar or nightclub within the LB district. However, retail sales of alcohol for consumption off site are allowed. The applicant desires to be able to sell alcohol for on site consumption in conjunction with the retail smoke shop use.

Details of Proposal

The proposed text amendment affects Table 4.1.9, *Principal Use Table*, as well as Section 4.2.6.C.2 *Commercial Use Classification, Eating Establishments, Use Types* and Section 4.3.4.C.1 *Use Standards, Commercial Uses, Eating Establishments, Bar or Nightclub*.

The applicant has requested that a Major and Minor classification be made for the *Bar or nightclub* use, and that the minor classification be a permitted use in the Limited Business zoning district. The use classification proposed would be similar to others within the Development Ordinance, with the Major classification being those establishments with more than 4,000 square feet of gross floor area, and the Minor classification being those establishments with 4,000 square feet of gross floor area or less.

The applicant has not requested any modification to the use standards of the *Bar or nightclub* use.

Analysis

The LB District is established to primarily accommodate low to moderate intensity office, retail, and personal service uses adjacent to and within residential neighborhoods. In addition to commercial uses, the district also allows a variety of residential and institutional uses in stand-alone structures as well as in mixed-use developments. LB District parcels are typically found near the intersection of thoroughfares or collector streets and adjacent to residential districts.

The changes proposed within the LB District will allow for a more consistent application of the Development Ordinance. The LB District currently allows convenience stores, which may provide the retail sale of alcohol, and it allows restaurants, which may provide the on-site consumption of alcohol. The district does not allow bars, which also allows the on-site consumption of alcohol. In this case, the applicant's retail store provides the retail sale of alcohol, is adjacent to a restaurant and is located across the street from a convenience store that also sells retail alcohol.

The current use standards associated with a bar or nightclub are not proposed to be amended and will be applied to both major and minor uses. These use standards require separation from a religious institution and school, restrict entrance orientation and require a 6-foot high opaque fence when abutting a residential district.

Consistency with Adopted Plans:

The proposed text amendments are appropriate and are consistent with the purposes, goals, objectives and policies of relevant comprehensive land use or area plans

This text amendment is neither consistent or inconsistent with adopted policy guidance.

Reasonableness/Public Interest:

An approval of the proposed text amendments is considered reasonable and in the public interest.

The proposed amendment provides a more consistent set of allowable principal uses for the LB District.

Recommendation

Staff recommends approval.

Required Action

Planning and Zoning Commission:

The NC General Statutes require that the Planning and Zoning Commission place in the official record a statement of consistency with the City's adopted plans when making its recommendation. This may be accomplished by adopting the statements in the Staff Analysis section of this report or by adopting its own statement.

City Council:

The NC General Statutes require that the City Council place in the official record a statement of consistency with the City's adopted plans, and also explain why the action taken is considered to be reasonable and in the public interest when rendering its decision in this case. This may be accomplished by adopting the statements in the Staff Analysis section of this report or by adopting its own statement.

Report Preparation

This report was prepared by Planning and Development Department staff member(s) Christopher Andrews, AICP, and reviewed by G. Lee Burnette, AICP, Director.

TEXT AMENDMENT 19-04

Ordinance #XXXX/XX-XX

Applicant: Matthew Rogers

AN ORDINANCE AMENDING THE CITY OF HIGH POINT DEVELOPMENT ORDINANCE REGARDING THE ESTABLISHMENT OF MAJOR AND MINOR BAR OR NIGHTCLUB USE TYPES.

WHEREAS, the City of High Point adopted the “City of High Point Development Ordinance” on May 16, 2016, with an effective date of January 1, 2017, and subsequently amended; and

WHEREAS, public hearings were held before the Planning and Zoning Commission on September 24, 2019 and before the City Council on October 7, 2019 regarding Text Amendment 19-04; and

WHEREAS, notice of the public hearings was published in the High Point Enterprise on September 15, 2019 for the Planning and Zoning Commission public hearing, and on September 25, 2019 and October 2, 2019 for the City Council public hearing pursuant to Chapter 160A-364 of the General Statutes of North Carolina.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT, NORTH CAROLINA:

CHAPTER 4: - USES

Section 1.

Section 4.1.9 *Principal Use Table*, Table 4.1.9. Principal Use Table, is hereby amended as shown in the row titled *Eating Establishments* in the section of the table reproduced below, establishing a major and minor classification for the Bar or nightclub use type.

TEXT AMENDMENT 19-04

Ordinance #XXXX/XX-XX

Applicant: Matthew Rogers

Table 4.1.9 - Principal Use Table

USE CATEGORY	USE TYPE	R-3	R-5	R-7	RM-5	RM-16	RM-26	TOO	I	LB	GB	RC	CB	EC	LI	HI	AGRI	PNR	MS	MX	District Use Prohibition	Additional Standards	
Commercial Use Classification																							
Eating Establishments	Bar or nightclub, major										P	P	P		P	P				P	P		4.3.4 C.1
	Bar or nightclub, minor									P	P	P	P		P	P				P	P		4.3.4 C.1

Section 2.

Section 4.2.6 – Commercial Use Classification, Table 4.2.6. - Commercial Use Classification is hereby amended as shown in the row titled *C. Eating Establishments* in the section of the table reproduced below, establishing a minor and major classification for the Bar or nightclub use type.

Table 4.2.6 - Commercial Use Classification

C. EATING ESTABLISHMENTS	2. USE TYPES:	
	(a) Bar or nightclub	An establishment primarily devoted to the sale of alcoholic beverages for on-site consumption, where the sale of food is incidental. Activities may include dancing or other forms of entertainment (including live performances that are not considered adult entertainment uses) such as billiard tables, darts, and karaoke.
		1) <u>Major – A bar or nightclub with more than 4,000 square feet of gross floor area</u>
		2) <u>Minor – A bar or nightclub with 4,000 square feet of gross floor area or less</u>

Section 3.

Section 4.3.4 – Commercial Uses, is hereby amended as follows:

C. Eating Establishments in Section 4.3.4 – Commercial Uses establishes use standards for both minor and major classifications of the Bar or nightclub use type. Existing use standards shall apply to both major and minor Bar or nightclub uses.

4.3.4 Use Standards – Commercial Uses

C. Eating Establishments

1.Bar or Nightclub **(Major and Minor)** A bar or nightclub shall comply with the following standards:

(a) unchanged

(b) unchanged

(c) unchanged

Section 4.

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 6.

This ordinance shall become effective upon adoption.

Adopted by the City Council
City of High Point, North Carolina
The ____ day of ____, 2019
Lisa B. Vierling, City Clerk