Board of County Commissioners - Staff Report

Subject: AMD2016-0007: AC-TC Reduction of Minimum Base Site Area for Uses

Agent: Pierson Land Works (Chris Beaulieu)
Applicant: Leonard Kleiman
Property Owner: n/a

Presenter: Alex Norton

REQUESTED ACTION

Amend Section 2.3.1.C.1 of the Land Development Regulations, pursuant to Section 8.7.1, LDR Text Amendments, to reduce the minimum Base Site Area from 30,000 square feet to 5,000 square feet for uses in the Auto-Urban Commercial - County (AC-TC) Zone.

BACKGROUND/DESCRIPTION

PROJECT DESCRIPTION

The use table for the Auto-Urban Commercial (AC-TC) zone allows a number of commercial uses, but only with a minimum Base Site Area of 30,000 sf. The only principal uses that do not require 30,000 sf are agriculture, detached single-family unit, and aviation. While the AC-TC is a commercial zone, only 4 of the 18 parcels in Hoback Junction have a Base Site Area of 30,000 sf, although 2 parcels are used as a single commercial site (Hoback Market) that achieve the minimum Base Site Area when combined. To address this seeming contradiction, the applicant, who owns a site of about 10,500 sf, is requesting that the Land Development Regulations (LDRs) be amended to allow commercial uses on sites with 5,000 sf of Base Site Area. The applicant cannot seek a variance to the standard because pursuant to Section 8.8.2.B.3 a variance may not be sought that would allow a prohibited use.

The application has not proposed any use or development as part of this application. This application is to review a text amendment reducing the minimum site area for commercial uses in the AC-TC zone in order to make the uses allowed in the use schedule applicable to more AC-TC properties.

LOCATION

While the application technically applies to the entire AC-TC zone, it practically applies only in Hoback Junction. The AC-TC has three locations: the "Y" intersection, the Aspens, and Hoback Junction.

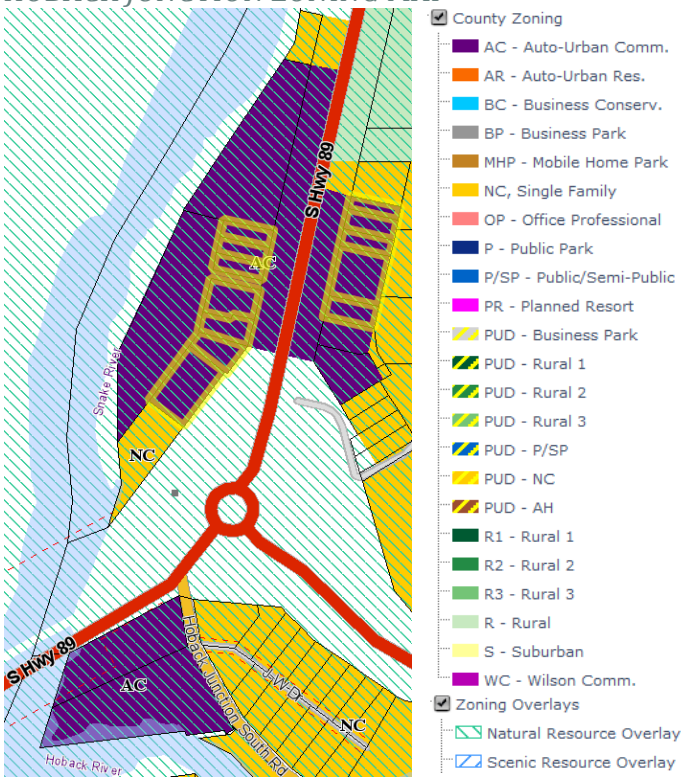
At the "Y" intersection of WY 22 and Highway 89, at the edge of Town, the Teton Gables/Cutty's and "old Maverick" parcels were annexed by the Town of Jackson effective September 21, 2016. The single remaining AC-TC property is the Old West Self Storage site, which is 3.72 acres and thus unaffected by the proposed amendment.

At the Aspens, located to the west off Moose-Wilson Road about 2 miles north of the junction with WY 22, allowed use and floor area is governed by an approved master plan. The proposed amendment would not supersede the uses and floor area allowed on the various parcels in the Aspens Commercial District.

Hoback Junction, located 10 miles south of Town on Highway 89 at the junction with Highway 191, is the only location of AC-TC zoning where the minimum Base Site Area for allowed uses is applicable. As a result, the analysis and findings in this report focus on Hoback Junction. The 12 Hoback parcels that are less than 30,000 sf are highlighted in the maps below.

Character District: 8: River Bottom
Subarea: 8.4: Hoback Junction
Zone: Auto Urban Commercial – County (AC-TC)
Overlay: Natural Resources Overlay (NRO)

HOBACK JUNCTION ZONING MAP



SITE MAP OF AFFECTED SITES IN HOBACK JUNCTION

EXISTING CONDITIONS

As illustrated in the site map above, most of the Hoback Junction AC-TC zone has a current commercial or residential use. Of the 12 parcels less than 30,000 sf that would be impacted by the application, 8 are currently used residentially. Three parcels have commercial use; and 1 parcel, the applicant's, is taxed as vacant commercial land. However, the site map also illustrates the potential for development, even on the sites less than 30,000 sf, due to the relatively small buildings compared to the lot size.

STAFF ANALYSIS

The proposed application would enable commercial use in a commercial zone, where it is currently, counterintuitively prohibited. The current standard is based on auto-oriented shopping plazas like Kmart or Powderhorn Plazas in Town. That type of commercial development is not consistent with the goals of the Comprehensive Plan, nor is it practical in Hoback Junction. The AC-TC zone needs a comprehensive update, but the Board has prioritized other LDR updates ahead of updating the AC-TC zone. Surgical allowances that implement the Comprehensive Plan without opening the entire conversation of the AC-TC zone are an appropriate bridge between the current LDRs and future LDRs that will be based on the vision of the Comprehensive Plan.

KEY ISSUES

KEY ISSUE 1: Does allowing commercial use create the need for Variances from physical development standards?

The Comprehensive Plan certainly envisions a continuation of the commercial character of Hoback Junction. Allowing such uses on any site in the AC-TC seems appropriate, but the AC-TC is a legacy zone established in 1994, so many of the physical development standards in the zone vary by use. The question becomes whether the applicant and the other landowners could even develop a commercial use given the dimensional limitations of the zone?

2.3.1.B.1. Structure Location & Mass	Detached Single-Family	Commercial Use
FAR (max)	0.38	0.35
LSR (min)	0.50	0.27
Street Setback	20'	50'
Height	24'	26'
Side Setback	10'	20'
Rear Setback	30'	20'

The map on the following page highlights the properties affected by the application in red. The yellow lines are the setbacks for a detached single-family unit. The blue lines are the setbacks for a commercial use.

Five of the 12 sites have a commercial building envelope that is 10 feet wide or less, which is unbuildable without a variance. Four more have commercial building envelopes between 20 and 25 feet wide, which is still constrained. On those 4 constrained lots to achieve the maximum FAR the building would have to be two stories setback to setback. For comparison, with the exception of the smallest lot, the narrowest residential building envelope is 30 feet and the maximum FAR can be met in a single story without having to build setback to setback.

The results of this analysis are not surprising. The dimensional limitations for commercial use are consistent with the prohibition of commercial use on smaller sites. The 3 larger sites have no issue achieving the allowed FAR and have very buildable building envelopes. But the results do beg the question of whether approval of this application would lead to further variance or test amendment requests?

Staff finds that the intent of the applicant's proposal – to allow commercial use in the AC-TC zone in Hoback Junction – is consistent with the desired future character for the area. However in order to recommend approval of the proposal, staff recommends that the side setback also be reduced to 10 feet for all uses. Eventually the zoning in Hoback Junction will be comprehensively updated, but until that time reducing the side yard setback is the simplest change that will facilitate the applicant's purpose. Reducing the side setback will have limited impact on residential neighbors because it will match the residential setback and the allowed floor area of commercial use is actually less than residential use while the allowed height for commercial use is only 2 feet higher. Staff's first recommended condition of approval is necessary to avoid future variance requests that would be needed in order to realize commercial use in the AC-TC.

KEY ISSUE 2: Is the proposed 5,000 sf minimum the right solution?

There are no AC-TC parcels under 5,000 sf in Hoback Junction (or the Aspens or "Y"). As a result, Staff does not find any value in instituting a minimum rather than just making the standard not applicable by making the minimum 0 sf as is done for agriculture, detached single-family, and aviation use.

AC-TC Sites in Hoback	17
Sites < 30,000 sf	12
Sites < 7,500 sf	1
Sites < 5,000 sf	0

Another potential approach would be to use the AC-TC minimum lot size of 7,500 sf as the minimum. The practical effect of this would be to prohibit commercial use on one property in Hoback, and that property is constrained anyway. Staff does not find an issue on that one parcel that is worth instituting a minimum Base Site Area that would exclude it.

Staff recommends a condition of approval that the applicant's proposal be revised to reduce the minimum Base Site Area to 0 sf for all uses in the AC-TC zone.

PLANNING COMMISSION ANALYSIS

The Planning Commission (PC) is supportive of enabling commercial use in a commercial zone. One Commissioner pointed out that if updating the LDRs is going to take years it is reasonable to make small changes along the way to help landowners in realizing the vision for their property described in the Comprehensive Plan. The PC did ask about the origins of the current 30,000 sf base site area minimum. Staff responded that the current standard is a vestige of the 1994 zoning which is auto-oriented and designed for shopping plazas like Kmart or Powderhorn, which is contrary to the vision for Hoback described in the Comprehensive Plan. The PC also clarify that there is no proposed change to the street or rear setbacks.

STAKEHOLDER ANALYSIS

DEPARTMENTAL REVIEWS

The application was sent only to the County Attorney for review.

PUBLIC COMMENT

Notice of the Planning Commission hearing was published in the Jackson Hole News and Guide on September 7. Notice of this hearing was published in the Jackson Hole News and Guide on September 14. Notice was not sent to neighbors or posted on site because there is no specific site of the proposal. As of the publishing of this report no comments have been received.

LEGAL REVIEW

Weisman

RECOMMENDATIONS

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of **AMD2016-0007**, as proposed in the revised exhibit dated August 30, 2016, subject to the 2 conditions recommended below, based on the findings recommended below.

RECOMMENDED CONDITIONS OF APPROVAL

1. The minimum side yard setback for all uses in the AC-TC zone shall be 10 feet.
2. The minimum Base Site Area for all uses in the AC-TC zone shall be 0 sf.

RECOMMENDED FINDINGS

Pursuant to Section 8.7.1.C of the Land Development Regulations, the advisability of amending the text of these LDRs is a matter committed to the legislative discretion of the Board of County Commissioners and is not controlled by any one factor. In deciding to adopt or deny a proposed LDR text amendment the Board of County Commissioners shall consider factors including, but not limited to, the extent to which the proposed amendment:

1. Is consistent with the purposes and organization of the LDRs

Complies as Conditioned. The purpose of these LDRs is to implement the Comprehensive Plan in a predictable and coordinated manner. The proposal's implementation of the Comprehensive Plan is detailed below. Staff's second recommended condition improves predictability by removing an unnecessary threshold proposed by the applicant. There are no properties less than the 5,000 sf minimum proposed by the applicant, therefore the minimum should just be 0 sf for clarity and predictability. The proposal improves coordination with the Town by making the AC-TC more similar in allowed uses to the AC-ToJ (Auto-Urban Commercial – Town).

2. Improves the consistency of the LDRs with other provisions of the LDRs

Complies as Conditioned. The application improves consistency within the LDRs by allowing commercial use in the Auto-Urban Commercial zone where it is effectively prohibited by the current standard on nearly a third of the parcels in the zone. However, in order to avoid one fix causing another problem the side setback must also be reduced to enable the commercial use that would be allowed. The setbacks of the AC-TC zone vary with use and are calibrated for large sites for commercial use. In order to allow commercial use on smaller sites as proposed,

the setbacks have to be reduced as well. The simplest way to achieve this is through a reduction of the side setback. Staff can only make this finding subject to the first recommended condition of approval.

3. Provides flexibility for landowners within standards that clearly define desired character

Complies. The application provides landowners within a commercial zone the opportunity to pursue commercial development. Some of the sites are more constrained than others by the dimensional limitations that still govern physical character. Desired character is also defined by the type of uses that require a Conditional Use Permit, which will not change.

4. Is necessary to address changing conditions, public necessity, and/or state or federal legislation

Not Applicable. The purpose of this application is not to address changing conditions, public necessity, or other legislation. The purpose of this application is to improve the internal consistency of the LDRs and implementation of the Comprehensive Plan.

5. Improves implementation of the Comprehensive Plan

Complies. The application improves implementation of the Comprehensive Plan as discussed below. Because the application is really only applicable in Hoback Junction, the Comprehensive Plan analysis is focused on the desired future character for Hoback Junction.

Subarea 8.4: Character Defining Features

This STABLE Subarea is a small highway commercial neighborhood within the Canyon Corridor (Subarea 8.3). Hoback Junction should continue to provide convenience commercial to the residents of the district and other areas in the southern portion of the community, as well as those traveling through the district. The subarea will also continue to support outdoor recreation businesses, especially those reliant upon the river. Within walking distance of the commercial area the residential character should continue to emphasize single family housing, including workforce housing, on town-sized lots. Future amenities for this subarea might include increased pedestrian connection from residential areas to the commercial area and a park 'n' ride facility to increase transit viability.

The first aspect of Hoback Junction's character that is defined in the Comprehensive Plan is its commercial character. The proposed amendment would allow for continued development of that commercial character in the existing commercial zone, where the current LDRs effectively prohibit commercial use on 12 of 17 sites.

Character District 8: Policy Objectives

1.1.b: Protect wildlife from the impacts of development. Not Applicable. This policy is an objective of the Preservation and Conservation subareas in the rest of Character District 8.

1.1.c: Design for wildlife permeability. Not Applicable. This policy is an objective of the Preservation and Conservation subareas in the rest of Character District 8.

1.1.h: Promote responsible use of public lands. Not Applicable. This policy is an objective of the Preservation and Conservation subareas in the rest of Character District 8.

1.2.a: Buffer water bodies, wetlands, and riparian areas from development. Not Applicable. The AC-TC parcels that would be affected by this amendment are outside of the Snake River development buffer.

1.3.b: Maintain expansive hillside and foreground vistas. Not Applicable. This policy is an objective of the Preservation and Conservation subareas in the rest of Character District 8.

1.4.a: Encourage non-development conservation of wildlife habitat. Not Applicable. This policy is an objective of the Preservation and Conservation subareas in the rest of Character District 8.

1.4.c: Encourage rural development to include quality open space. Not Applicable. This policy is an objective of the Preservation and Conservation subareas in the rest of Character District 8.

3.1.b: Direct development toward suitable Complete Neighborhoods subareas. Complies. The application achieves this objective by enabling commercial use in a Stable subarea where it is identified as a part of the desired future character.

3.1.c: Maintain rural character outside of Complete Neighborhoods. Not Applicable. This policy is an objective of the Preservation and Conservation subareas in the rest of Character District 8.

6.1.b: Promote eco-tourism. Complies. The application achieves this objective by enabling commercial use on more properties in Hoback Junction where river-based, eco-tourism exists and is encouraged in the future.

6. Is consistent with other adopted County Resolutions

Complies. The application has no impact on other adopted County Resolutions.

PC RECOMMENDATION

At their October 10, 2016 meeting, the Planning Commission voted 5-0 to recommend **APPROVAL** of **AMD2016-0007**, as proposed in the revised exhibit dated August 30, 2016, subject to the 2 conditions recommended by staff, being able to make the findings of Section 8.7.1 as recommended by staff.

ATTACHMENTS

- Recommended amendment (including conditions), dated September 20, 2016
- Application (physical copy available upon request)

SUGGESTED MOTION

I move to **APPROVE AMD2016-0007**, as proposed in the revised exhibit dated August 30, 2016, subject to the 2 conditions recommended by staff, being able to make the findings of Section 8.7.1 as recommended by staff.

Div. 2.3. Complete Neighborhood Legacy Zones

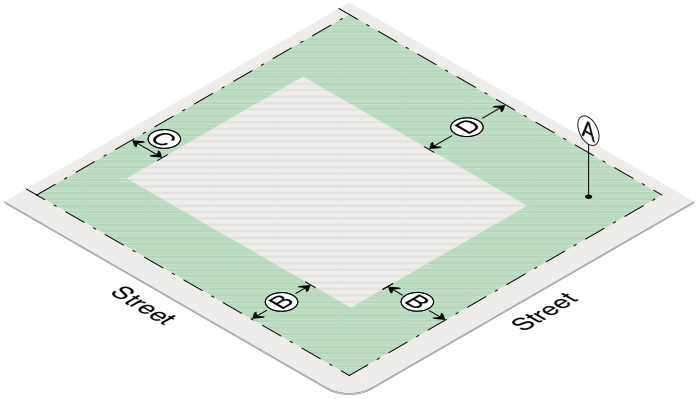
2.3.1. Auto Urban Commercial - County (AC-TC) Zone (4/19/16)

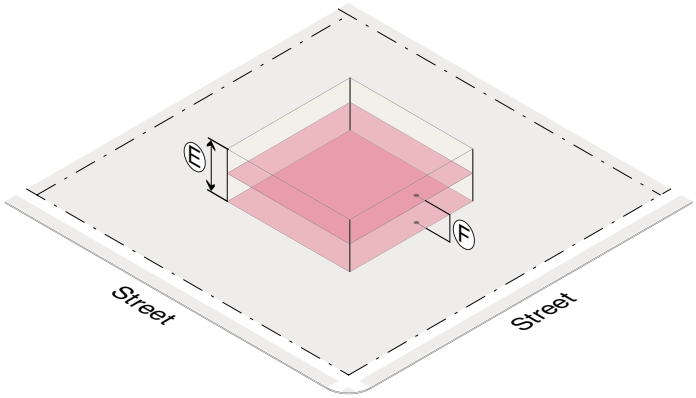
A. Intent

The purpose of the Auto-Urban Commercial - County (AC-TC) Zone is to provide for commercial development that is oriented to the street and is easily accessed by automobiles, with adequate parking and pedestrian connections to adjoining developments in order to promote non-vehicular movement between buildings in commercial areas. Uses in the AC-TC zone primarily serve residents' commercial needs, and some tourist service uses. The AC-TC zone is intended to be applied to community-serving commercial areas.

B. Physical Development

Standards applicable to physical development in the AC-TC zone are provided or referenced below. Where a cross reference is provided, please see the referenced division or section for additional standards applicable in the AC-TC zone. This Subsection is intended to indicate all of the physical development standards applicable in the AC-TC zone, however, all standards in Article 5. are applicable in the AC-TC zone, unless stated otherwise.





1. Structure Location and Mass						
	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ	Ⓕ
	LSR (min)	Street Setback (min)	Side Setback (min)	Rear Setback (min)	Height (max)	FAR (max)
Detached Single-family unit	.50	20'	10'	30'	24'	.38
with 1 attached accessory unit	.48	20'	10'	20'	24'	.40
with 1 detached accessory unit	.48	20'	10'	6'	24'	.40
with 2 accessory units	.45	20'	10'	6'	24'	.43
Dormitory or Group home	.27	50'	10' ~~20'~~	20'	26'	.35
Other principal use	.27	50'	10' ~~20'~~	20'	26'	.35
Accessory use	See standards for primary use with which associated					
Temporary use	n/a	50'	10' ~~20'~~	20'	26'	n/a
Individual lot within a PRD	Standards established through PRD approval					

Exceptions

Residential Side/Rear Yard Projections. Fire escapes may extend into a side or rear yard by not more than 4 feet.

FAR Exemption. The floor area of an accessory residential unit that is accessory to a nonresidential use shall be exempt from the FAR calculation for the site.

[AMD2016-0007 Staff Recommendation, September 20, 2016]

12. Required Physical Development Permits					
Physical Development	Sketch Plan (Sec. 8.3.1.)	Development Plan (Sec. 8.3.2.)	Building Permit (Sec. 8.3.3.)	Sign Permit (Sec. 8.3.5.)	Grading Permit (Sec. 8.3.4.)
Dwelling Unit					
< 5 units			X		(Sec. 5.7.1.)
5 - 10 units		X	X		(Sec. 5.7.1.)
> 10 units	X	X	X		(Sec. 5.7.1.)
Nonresidential Floor Area					
< 3,450 sf			X		(Sec. 5.7.1.)
3,450 to 12,000 sf		X*	X		(Sec. 5.7.1.)
> 12,000 sf	X*	X*	X		(Sec. 5.7.1.)
Sign				X	(Sec. 5.7.1.)

* Not required for physical development associated with an agricultural use meeting the standards for exemption outlined in Section 6.1.3.B.

C. Use Standards

Standards applicable to uses in the AC-TC zone are provided or referenced below. Allowed uses are listed in Subsection 1. Uses that are not listed are prohibited unless a similar use determination is made pursuant to 6.1.2.D. Where a cross reference is provided, please see the referenced division or section for additional standards applicable in the AC-TC zone. This Subsection is intended to indicate all of the use standards applicable in the AC-TC zone, however, all standards in Article 6. are applicable in the AC-TC zone unless stated otherwise.

1. Allowed Uses				2. Use Requirements	
Use	Permit	BSA (min)	Density (max)	Parking (min) (Div. 6.2.)	Employees Required to be Housed (min) (Div. 6.3.)
Open Space					
Agriculture (6.1.3.B.)	Y	0 sf	n/a	n/a	exempt
Outdoor Recreation (6.1.7.C.)	C	30,000 sf	n/a	independent calculation	independent calculation
Residential					
Detached Single-Family Unit (6.1.4.B.)	Y	0 sf	1 unit per lot	2/DU	n/a
Dormitory (6.1.4.F.)	B	~~30,00~~0 sf	30 rooms per acre	1/bed	n/a
Group Home (6.1.4.G.)	B	~~30,00~~0 sf	30 rooms per acre	0.5/bed	n/a

Y=Use allowed, no permit required B=Basic Use Permit (Sec. 8.4.1.) C=Conditional Use Permit (Sec. 8.4.2.)

[AMD2016-0007 Staff Recommendation, September 20, 2016]

1. Allowed Uses				2. Use Requirements	
Use	Permit	BSA (min)	Density (max)	Parking (min) (Div. 6.2.)	Employees Required to be Housed (min) (Div. 6.3.)
Commercial					
Office (6.1.6.B.)	B	~~30,00~~0 sf	n/a	3.3/1,000 sf	0.05/1,000 sf
Retail (6.1.6.C.)	B	~~30,00~~0 sf	n/a	4.5/1,000 sf	0.56/1,000 sf
Service (6.1.6.D.)	B	~~30,00~~0 sf	n/a	3/1,000 sf	0.20/1,000 sf
Restaurant/Bar (6.1.6.E.)	B	~~30,00~~0 sf	n/a	1/55 sf dining area + 1/30 sf bar area	1.35/1,000 sf
Heavy Retail/Service (6.1.6.F.)	C	~~30,00~~0 sf	n/a	2/1,000 sf + 3/repair bay + 1/wash bay	0.06/1,000 sf
Mini-Storage Warehouse (6.1.6.G.)	C	~~30,00~~0 sf	n/a	1/10 storage units + 1/employee	independent calculation
Nursery (6.1.6.H.)	B	~~30,00~~0 sf	n/a	2/1,000 sf + 1/4,000 sf outdoor display area + 1/company vehicle + 1/employee	0.37/1,000 sf + 1.51/ac
Amusement/Recreation					
Amusement (6.1.7.B.)	C	~~30,00~~0 sf	n/a	1/30 sf seating area	independent calculation
Developed Recreation (6.1.7.C.)	B	~~30,00~~0 sf	n/a	4.5/1,000 sf	independent calculation
Outfitter/Tour Operator (6.1.7.E.)	C	~~30,00~~0 sf	n/a	independent calculation	independent calculation
Institutional					
Assembly (6.1.8.B.)	B	~~30,00~~0 sf	n/a	independent calculation	exempt
Daycare/Education (6.1.8.C.)	B	~~30,00~~0 sf	n/a	independent calculation	exempt
Industrial					
Light Industry (6.1.9.B.)	C	~~30,00~~0 sf	n/a	1/1,000 sf + 1/company vehicle	0.03/1,000 sf
Transportation/Infrastructure					
Parking (6.1.10.B.)	C	~~30,00~~0 sf	n/a	n/a	independent calculation
Utility Facility (6.1.10.C.)	C	~~30,00~~0 sf	n/a	1/employee + 1/stored vehicle	independent calculation
Wireless Communication Facilities (6.1.10.D.)	6.1.10.D.	~~30,00~~0 sf	n/a	1/employee + 1/stored vehicle	independent calculation
Aviation (6.1.10.E.)	C	0 sf	n/a	independent calculation	independent calculation

Y=Use allowed, no permit required B=Basic Use Permit (Sec. 8.4.1.) C=Conditional Use Permit (Sec. 8.4.2.)

[AMD2016-0007 Staff Recommendation, September 20, 2016]