



MEMO

Date: April 26, 2016
 To: Board of Commissioners
 From: Jason Burdette, Planning Director
 Re: Davidson Planning Ordinance Proposed Text & Map Amendments, Staff Analysis

1. TEXT AMENDMENTS

TEXT CHANGES – PROPOSED AMENDMENTS

The following is a list of proposed text changes to the Town of Davidson Planning Ordinance (DPO). The reasons for each of the listed changes vary from necessary clarifications and inadvertent omissions to inconsistencies with statewide legislation passed since the DPO was approved by the Board of Commissioners and came into effect on May 1, 2015. Proposals are organized by page number.

PROPOSED TEXT CHANGES				
PAGE	SECTION	TITLE	ISSUE	PROPOSED MODIFICATION
SECTION 2 – PLANNING AREAS				
2-X	2.2.X	TABLE 2-X BUILDING TYPES	The DPO must be brought into compliance with state legislation passed regarding design aesthetics and what building elements can/cannot be reviewed as part of the approval process. Per Senate Bill 25, duplexes can no longer be reviewed for aesthetics.	For all applicable Building Type tables in Section 2 Planning Areas, remove “R - Duplex Only” from the Design Review Column of the table and replace it with a “-” indicating that Design Review is not required for the Detached House - Duplex building type.
TEXT CHANGES			Old Text: R - Duplex Only New Text: -	
2-X	2.2.X	TABLE 2-X SETBACK TABLE (FOOTNOTE)	The text is unclear in conveying whether pedestrian features located between the building and public right-of-way are included/counted as part of the required front and side setback area.	Change the text to clarify that pedestrian features are included/counted as part of the required front and side setback area.
TEXT CHANGES			Old Text: ¹ Front and side setbacks exclude pedestrian uses such as plazas, stoops, walks, sidewalk cafes, etc.	

			New Text: ¹ Pedestrian features such as plazas, stoops, walks, and sidewalk cafes, etc., are included as part of the front and side setback areas.	
2-9	2.2.1	TABLE 2-3 BUILDING TYPES	Institutional building type is not listed in this table; however, it is listed in the preceding table as an allowed building type.	Include Institutional in this table and list the applicable setback requirements and superscript.
TEXT CHANGES			Old Text: N/A [Does not exist] New Text: Institutional ¹ Front Setback: 0’ Min., NA Max. Side Setback: 0’ Min., NA Max. Rear Setback: NA Ground Floor, NA Upper Floors	
2-22	2.2.4	TABLE 2-12 BUILDING TYPES	Because the superscript (¹) below Table 2-12 includes pedestrian uses as part of the front setback area, the front setback requirements for Institutional Building Types located behind such uses need to be modified to minimize any additional setback requirement, since these building types are already set back behind plazas, stoops, walks, etc.	Change 5' Front Setback to 0' for Institutional Building Type. Also, include superscript " ¹ " next to Institutional Building Type.
TEXT CHANGES			Old Text: Institutional Front Setback: 5’ Min., NA Max. New Text: Institutional ¹ Front Setback: 0’ Min., NA Max.	
SECTION 3 – ADDITIONAL REQUIREMENTS				
3-4	(NEW) 3.2.9	COLUMBARIUM	This is a burial/memorial use not fully recognized or regulated in the current ordinance. A columbarium use needs to be recognized and provided with specific regulations governing location, scale, etc.	Include language recognizing the columbarium use and regulations for the use’s location/Planning Area, scale, etc.
TEXT CHANGES			Old Text: N/A [Does not exist] New Text: Columbarium 1. A columbarium will be permitted as an accessory use or structure to a Religious Institution, with additional requirements. 2. Wall Columbarium: Shall not be located on a street facing façade. 3. Freestanding Columbarium:	

			<div>a. Shall not be greater than six feet in height, including all structural borders and/or any ornamentation atop the columbarium.</div> <div>b. The size of the columbarium site, including benches and walking paths around the columbarium, shall not exceed a total of 2,500 square feet. A columbarium site over 500 square feet shall require Design Review Board approval.</div>	
SECTION 4 – SITE & BUILDING DESIGN STANDARDS				
4-16	4.5.8.A.3	NUMBER OF ACCESSORY STRUCTURES	Reference in A.3 first sentence should be "accessory structure" not "garage location." Additionally, the reference concerns location and not the number of structures; therefore, it should be relocated to the location section (4.5.8.C.5).	<div>1. Change reference to "minor variations to the accessory structure location regulations..."</div> <div>2. Move to 4.5.8.C.5</div>
TEXT CHANGES			<div>Old Text: Exceptions or minor variations to the garage location regulations may be permitted with the approval of the Planning Director.</div> <div>New Text: Exceptions or minor variations to the accessory structure location regulations may be permitted with the approval of the Planning Director.</div>	
4-16	4.5.8.C.1	LOCATION OF ACCESSORY STRUCTURE	The current sentence may be read to assume that it applies only to the distance between the principal structure and all accessory structures. The intent of the sentence is to require a proposed structure's separation from the principal structure AND other accessory structures.	Revise the sentence to clarify that a 10’ distance is required to be maintained between an accessory structure and principal structure, AND other accessory structures.
TEXT CHANGES			<div>Old Text: A minimum of ten feet shall be maintained between the principal structure and any other accessory structure(s).</div> <div>New Text: A minimum of ten feet shall be maintained between the proposed accessory structure and the following: 1) The principal structure; and, 2), any other accessory structure(s).</div>	
SECTION 9 – TREE PRESERVATION, LANDSCAPING, & SCREENING				
9-6	9.3.3.A	TREE REMOVAL	The last sentence of the paragraph doesn't indicate that only one item on the following list must be satisfied for the Planning Director to grant a permit.	Change the last sentence to read: "...has determined that at least one of the following apply:"
TEXT CHANGES			<div>Old Text: The permit shall be issued when the Planning Director has determined that:</div> <div>New Text: The permit shall be issued when the Planning Director has determined that at least one of the following apply:</div>	

SECTION 16 – DEFINITIONS				
16-6	16.3	DEFINITIONS, C	Columbarium is not defined but is being added as a use with specific criteria in DPO 3.0, Additional Requirements.	Include a definition of columbarium to clarify what uses and/or structures are determined to qualify.
TEXT CHANGES			Old Text: N/A [Does not exist] New Text: Columbarium: A structure of vaults lined with recesses for urns containing cremated human remains, or any other structure or space, including a space of ground, used or intended to be used for the placement of urns containing cremated human remains.	
16-8	16.3	DEFINITIONS, C	Courtyard is not defined but is referenced in various places throughout the ordinance.	Include a definition of courtyard to guide ordinance interpretations, as needed.
TEXT CHANGES			Old Text: N/A [Does not exist.] New Text: Courtyard means an unroofed area that is bound on at least three sides by roofed interior spaces, provided the two opposing walls are each at least 10 feet in depth.	
16-11	16.3	DEFINITIONS, F	The definition of façade needs clarification to determine how the most forward front surface (i.e. elevation) of a building is determined and how this surface relates to other site components.	Revise the definition of façade to clarify how the most forward front surface (i.e. elevation) of a building is determined and how this surface relates to other site components.
TEXT CHANGES			Old Text: N/A [Does not exist.] New Text: Façade, Front: The exterior wall of the building that contains the main building entrance and faces the primary publically-accessible right-of-way, pedestrian way, or open space.	
SECTION 18 – FLOODPLAIN OVERLAY DISTRICT				
18-26	18.6.2.B (NEW)	SPECIFIC STANDARDS	The ordinance does not address homes legally constructed in what were originally non-floodplain areas that, as a result of changing development patterns and shifting floodplain lines over time, become situated in floodplains and are therefore subject to floodplain development criteria after construction/certificate of occupancy has been issued.	Include language permitting the redevelopment of an existing home legally constructed and originally outside of a floodplain that, subsequently, becomes situated in a floodplain if the pre-existing home experiences significant damage.
TEXT CHANGES			Old Text: N/A [Does not exist] New Text: Any existing structure that at the time such structure was most recently constructed, re-constructed, or substantially improved, conformed to all applicable federal, state, and local ordinances which provide standards for preventing and reducing flood loss and damage, may be reconstructed or rehabilitated to its condition as of the most recent construction, re-construction,	

	or substantial improvement without obtaining a variance pursuant to Section 18.6.2.A. All other requirements of this Ordinance shall be applicable.
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2. PUBLIC PLANS AND POLICIES

The proposed text changes are consistent with the existing policy and ordinance frameworks adopted by the town. Most changes involve the improved clarification of text, or the inclusion of items inadvertently missed in the draft of the original ordinance. All proposed changes meet the requirements set forth in Davidson Planning Ordinance 1.5.1 Implementation of Adopted Plans & Policies: “Any amendments to, or actions pursuant to, this ordinance should be consistent with these adopted plans and policies, as amended.”

3. PUBLIC HEARING

A public hearing was held on April 12, 2016. Several citizens spoke in favor of the proposed ordinance. Staff clarified questions pertaining to definitions and setbacks for institutional building types in the Village Infill Planning Area.

4. PLANNING BOARD RECOMMENDATION

The Planning Board reviewed the proposed changes as part of the April 5, 2016 meeting. Minimal discussion occurred on the topic, with only one or two clarifying questions asked. The Planning Board approved the proposed changes at the April 25, 2016 meeting with no additional comments.

5. STAFF RECOMMENDATION

The proposed changes aim to: 1. Provide additional clarification pertaining to words or phrases utilized in the ordinance text; 2. Align the ordinance text with statewide legislation passed since the DPO was approved by the Board of Commissioners and came into effect on May 1, 2015; and, 3. Include in the ordinance items inadvertently missed in the drafting of the original ordinance or subsequent amendments. Specific explanations are provided in the table above. These changes are recommended for approval in order to accurately reflect the adopted Planning Area standards for each parcel.