



MEMO

Date: February 14, 2017
 To: Town Board
 From: Jason Burdette, Planning Director
 Re: Davidson Planning Ordinance Miscellaneous Proposed Text 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 listed changes are being undertaken to provide necessary clarifications, correct inadvertent omissions, and to address 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 ACTION
SECTION 2 – PLANNING AREAS				
2-X	2.X.X	VARIOUS OPEN SPACE TABLES	Below many open space tables in Section 2 the following phrase is listed: "Certain open space reduction bonuses may be applicable. See Section 7." This phrase refers to a policy contained within the pre-2015 ordinance that is no longer applicable for open space criteria.	Remove all instances of "Certain open space reduction bonuses may be applicable. See Section 7."
TEXT CHANGES			Old Text: Certain open space reduction bonuses may be applicable. See Section 7. New Text: N/A [Removed]	
2-1	2.1.1	PLANNING AREAS	The order in which the DPO lists the Planning Areas is confusing and not based on geographic proximity and/or intensity of development.	Revise the list to organize Planning Areas based on geography and intensity. Note: This will also result in the order of Planning Areas changing within Section 2.
TEXT CHANGES			Old Text:	

TEXT CHANGES			<ul style="list-style-type: none"> • Village Center (Section 2.2.1) • Village Commerce (Section 2.2.2) • Village Edge (Section 2.2.3) • Village Infill (Section 2.2.4) • Central Business District (Section 2.2.5) • Neighborhood Center I (Section 2.2.6) • Neighborhood Center II (Section 2.2.7) • Lakeshore (Section 2.2.8) • Neighborhood Services (Section 2.2.9) • Employment Campus I (Section 2.2.10) • Employment Campus II (Section 2.2.11) • Neighborhood Edge (Section 2.2.12) • Neighborhood General (Section 2.2.13) • College Campus (Section 2.2.14) • Rural (Section 2.2.15) • Rural Reserve (Section 2.2.16) • Conditional (Section 2.2.17) • Special Use (Section 2.2.18) <p>New Text:</p> <ul style="list-style-type: none"> • Village Center (Section 2.2.1) • Village Commerce (Section 2.2.2) • Village Edge (Section 2.2.3) • Village Infill (Section 2.2.4) • Central Business District (Section 2.2.5) • Lakeshore (Section 2.2.6) • Neighborhood Center I (Section 2.2.7) • Neighborhood Center II (Section 2.2.8) • Neighborhood Services (Section 2.2.9) • Neighborhood General (Section 2.2.10) • Neighborhood Edge (Section 2.2.11) • Rural (Section 2.2.12) • Rural Reserve (Section 2.2.13) • College Campus (Section 2.2.14) • Employment Campus I (Section 2.2.15) • Employment Campus II (Section 2.2.16) • Conditional (Section 2.2.17) • Special Use (Section 2.2.18) 	
2-4	2.1.3	PERMITTED USES	Updated state law [Ref. #] does not permit the listing of prohibited uses. The list's preface must be revised to indicate uses will be identified with the next closest use or, if that cannot be determined, on a conditional basis.	Revise the preface to be consistent with new state legislation regarding permitted uses. Additionally, all references in each Section 2 subsection, B. Permitted Uses, will need to be revised.
TEXT CHANGES			<p>Old Text:</p> <ul style="list-style-type: none"> □ [2.1.3 Preface] Uses not listed in the Use Table are presumed to be prohibited. The following is a list of uses specifically not permitted in any planning area... □ [2.X.X B. Permitted Uses] Uses not listed in the Use Table are presumed to be prohibited. 	

TEXT CHANGES			<p>New Text:</p> <ul style="list-style-type: none">▫ [2.1.3 Preface] Uses not listed in the Use Table may, upon determination of the Planning Director, be identified with the next-closest use or identified as a conditional use. The following is a list of uses specifically not permitted by-right in any planning area...▫ [2.X.X B. Permitted Uses] For Uses not listed in the Use Table, please see 2.1.3.	
2-22	2.2.4.D	VILLAGE INFILL SITE DESIGN STANDARDS	The current setback standards do not accommodate situations found within the older town neighborhoods where street and lot patterns are irregular.	Revise the language to allow flexibility for front setback standards in situations where streets and lots create irregular setbacks.
TEXT CHANGES			<p>Old Text: N/A [DNE]</p> <p>New Text: ...same side of the street. For dual-frontage lots, the Planning Director may waive the adjacent setback rule requiring the subject house to be within ten feet of the closest adjacent house based on the context of the block. Balconies, stoops...</p>	
2-30	2.2.6.C	PERMITTED BUILDING TYPES	The second paragraph listing a specific percentage of building types within NC1PA was intended for master plan projects and not as a requirement pertaining to the entire planning area.	Remove the language prescribing a certain percentage of building types within the planning area.
TEXT CHANGES			<p>Old Text: Within the Neighborhood Center I planning area a maximum of 25 percent of the land area may be townhouse, live/work, or multi-family building types and a maximum of 85 percent of the land area may be institutional, work places, or storefront building types.</p> <p>New Text: N/A [Removed]</p>	
SECTION 3 – USES WITH ADDITIONAL REQUIREMENTS				
3-5	3.2.11	COMMERCIAL SERVICES	This description references commercial services in the Neighborhood General and Village Infill Planning Areas, whereas these areas do not contain Commercial Services (a specific use-type not permitted in these planning areas). The language should be clarified to address Commercial/Office/Retail Uses.	Revise the text to reference the specific use-types contained in these planning areas.

TEXT CHANGES			<p>Old Text: 1. In Neighborhood General and Village Infill Planning Areas commercial services shall be permitted in a storefront building type only.</p> <p>New Text: 1. In Neighborhood General and Village Infill Planning Areas Commercial/Office/Retail Uses other than Home Occupations shall be permitted in a storefront building type only.</p>	
SECTION 4 – SITE & BUILDING DESIGN STANDARDS				
4-12	4.5.2.F.4	DETACHED HOUSE BUILDING TYPE	<p>The definition of façade is revised to include conditioned spaces. Therefore, language must be added clarifying instances in which garages may be flush with the front porch’s front plane, as currently allowed.</p>	<p>Include language clarifying instances in which the garage may be flush with the front plane of a front porch.</p>
TEXT CHANGES			<p>Old Text:of the house.</p> <p>New Text: [Last Sentence] ...of the house. If the front property line is at least 75 feet wide and the front façade has a covered porch that covers at least 60 percent of the front façade, then a side loaded garage, i.e. oriented at least 90 degrees to the front façade, may be flush with the front plane of the covered porch but shall not project in front of this plane.</p>	
SECTION 6 – SUBDIVISION & INFRASTRUCTURE STANDARDS				
6-13	6.7.3	TOWN STREET CLASSIFICATIONS	<p>The last sentence of the first paragraph references a table that no longer exists.</p>	<p>Remove the last sentence from the DPO.</p>
TEXT CHANGES			<p>Old Text: Only those street types permitted in the applicable district, as established in the table below, shall be permitted.</p> <p>New Text: N/A [Removed]</p>	
SECTION 7 – PARKS & OPEN SPACE				
7-6	7.4.5.A.D	NEIGHBORHOOD PARK	<p>The current DPO does not specify a minimum neighborhood park size, which is an inadvertent omission.</p>	<p>Include language from the previous ordinance specifying a minimum neighborhood park size.</p>
TEXT CHANGES			<p>Old Text: N/A [DNE]</p> <p>New Text: Neighborhood parks shall be a minimum of half of a contiguous acre in size.</p>	
7-9	7.4.2.F.A	COMMUNITY GARDEN	<p>The current description of community garden does not afford sufficient flexibility for staff to determine whether storage and/or</p>	<p>Revise the description to afford staff discretion in allowing the facility requirements to be met as needed for each project.</p>

			other facilities should be required for each garden.	
TEXT CHANGES			Old Text: Community gardens must include garden sheds for the storage of gardening equipment and access to a water source. New Text: Community gardens must include garden sheds for the storage of gardening equipment and access to a water source unless the Planning Director determines that site constraints prohibit such facilities.	
SECTION 8 – PARKING				
8-4	8.4.2.A	STRUCTURED PARKING	The current language does not contain flexibility for situations in which a building may front multiple rights-of-way.	Revise the language to acknowledge instances in which multiple rights-of-way exist and allow flexibility to meet the screening standard in these situations.
TEXT CHANGES			Old Text: When above-ground structured parking is located on a road right-of-way, the first two floors adjacent to the right-of-way shall be lined with a permitted building type for the planning area in which it is located. New Text: When above-ground structured parking is located on a road right-of-way, the first two floors adjacent to the right-of-way shall be lined with a permitted building type for the planning area in which it is located. If the structured parking fronts multiple rights-of-ways or pedestrian ways, the Planning Director may determine a hierarchy and the extent to which buildings shall line each.	
SECTION 14 – ADMINISTRATION & PROCEDURES				
14-2	14.3.E	TYPES OF DEVELOPMENT PROPOSALS – MASTER PLAN	The description of the Master Plan should be revised to include language consistent with the definition included in Section 16, which clarifies that this means a plan for more than two buildings.	Revise the description of Master Plan to be consistent with Section 16 and more clearly identify what qualifies as a Master Plan.
TEXT CHANGES			Old Text: Any development subject to this Ordinance not clearly falling under one of the categories listed in this section. New Text: E. Master Plan: A plan depicting more than two principal buildings on a single lot, buildings planned concurrently as part of the same development process, or any development subject to this ordinance not clearly falling under one of the categories listed in this section.	
14-2	14.3	TYPES OF DEVELOPMENT PROPOSALS	The DPO should be updated to reference and describe the required Meck. County Site Plan Improvement Process, which requires pre-	<ul style="list-style-type: none">▫ Revise the DPO to reference and describe Meck. County’s Site Plan Improvement Process.▫ Revise the DPO to reference informal, in-

14-2	14.3	TYPES OF DEVELOPMENT PROPOSALS	<p>submittal meetings and checklists to be completed by all stakeholders prior to document submission. Additionally, it should include reference to an in-house charrette, which affords project teams the opportunity to informally work through pre-concept site designs prior to submission of formal documentation – a practice that can lead to consensus plans and lessen the number of reviews required in EPM.</p>	house charrettes as a means to flesh out initial plans and build consensus amongst staff, the project team, and additional stakeholders, as needed.
TEXT CHANGES			<p>Old Text: N/A [DNE]</p> <p>New Text: [Below 14.3.F Individual Building] Development proposals are required to follow the processes outlined in this ordinance, as applicable, as well as Mecklenburg County processes, as applicable. This includes the Town & County Site Plan Review Process and all required meetings and documentation associated with this process. Additionally, the Planning Director may deem it necessary for an informal charrette with Planning Dept. staff and additional parties to be conducted during the conceptual design phase of a development proposal prior to application submission or participation in a Public Input Session or Work Session, depending on the process.</p>	
14-2	14.4	PUBLIC INPUT SESSION	The text should be modified to include scope for the Planning Director to require a Public Input Session for select project proposals, including Map Amendments.	Revise the text to provide scope for the Planning Director to require a Public Input Session for Map Amendments.
TEXT CHANGES			<p>Old Text: [First Sentence] The Planning Director may deem it necessary for a public input session to be conducted before a development proposal can be approved.</p> <p>New Text: [First Sentence] The Planning Director may deem it necessary for a public input session to be conducted before a development proposal or map amendment can be approved.</p>	
14-25	14.15	REQUIRED DOCUMENTS FOR DEVELOPMENT PROPOSALS	Documentation submitted for review as part of development proposals is often incomplete, illegible, and poorly organized, leading to confusing plan sets and longer project	Revise DPO to include reference to documentation standards, including US National CAD Standard and Master Format.

			review times. The DPO should be revised to clarify industry-standard documentation practices are required for all submitted documents.	
TEXT CHANGES			<p>Old Text: N/A [DNE]</p> <p>New Text: [Last Sentence] All project documentation must meet the latest versions of the US National CAD Standard and Master Format standards. Project documentation deemed non-compliant with these standards shall be subject to revisions prior to document approval.</p>	
14-27	14.15.2.L	MASTER PLAN: LANDSCAPE SCHEMATIC DESIGN	The list following Landscape Schematic Design has incorrect formatting in which the introductory statement and ensuing list are not appropriately distinguished but run together.	Revise DPO to create separation between 14.15.2.L and the following text, with Items M-P being clearly distinguished as a separate list per 8.3.N-O in 2009 DPO.
TEXT CHANGES			<p>Old Text:</p> <p>L. Landscape Schematic Design: Per Section 14.15.5 In addition to the required information listed on the previous page, the following information may be required by the Planning Director on discretionary, site-specific bases if necessary:</p> <p>M. Environmental Impact Statement: If required...</p> <p>New Text:</p> <p>L. Landscape Schematic Design: Per Section 14.15.5.</p> <p>In addition to the required information listed on the previous page, the following information may be required by the Planning Director on discretionary, site-specific bases if necessary:</p> <p>M. Environmental Impact Statement: If required...</p>	
14-29	14.15.7.J	SITE SCHEMATIC DESIGN: LANDSCAPE SCHEMATIC DESIGN	The list following Landscape Schematic Design has incorrect formatting in which the introductory statement and ensuing list are not appropriately distinguished but run together.	Revise DPO to create separation between 14.15.7.J and the following text, with Items K-N being clearly distinguished as a separate list per 8.3.N-O in 2009 DPO.
TEXT CHANGES			<p>Old Text:</p> <p>J. Landscape Schematic Design: Per Section 14.15.5 In addition to the required information listed on the previous page, the following information may be required by the Planning Director on discretionary, site-specific bases if necessary:</p>	

TEXT CHANGES			<p>K. Environmental Impact Statement: If required...</p> <p>New Text:</p> <p>J. Landscape Schematic Design: Per Section 14.15.5.</p> <p>In addition to the required information listed on the previous page, the following information may be required by the Planning Director on discretionary, site-specific bases if necessary:</p> <p>K. Environmental Impact Statement: If required...</p>	
14-32	14.15.8.N	SITE SCHEMATIC DESIGN: LANDSCAPE SCHEMATIC DESIGN	The list following Landscape Schematic Design has incorrect formatting in which the introductory statement and ensuing list are not appropriately distinguished but run together.	Revise DPO to create separation between 14.15.8.N and the following text, with Items O-S being clearly distinguished as a separate list per 8.4.U-Z in 2009 DPO.
TEXT CHANGES			<p>Old Text:</p> <p>N. Building Elevations: ...visible from public streets.</p> <p>In addition to the required information listed on the previous page, the following information may be required by the Planning Director on discretionary, site-specific bases if necessary:</p> <p>O. Non-Public Water and Sewer Systems: Where a proposed water...</p> <p>New Text:</p> <p>N. Building Elevations: ...visible from public streets.</p> <p>In addition to the required information listed on the previous page, the following information may be required by the Planning Director on discretionary, site-specific bases if necessary:</p> <p>O. Non-Public Water and Sewer Systems: Where a proposed water...</p>	
14-41	14.21.3	REQUIRED PLANS & PUBLIC NOTIFICATION	The current DPO text does not distinguish between different types of Map Amendments (i.e. rezonings), which can lead to disparity in mailing requirements for different proposals and is inconsistent with the DPO mailing requirements for Public Input Sessions.	Revise the DPO text to distinguish noticing requirements between singular/minor rezonings that require the mailing of properties within 1,320 feet and rezonings of more than five properties or ten acres, which would require noticing of adjacent properties and those within 100' of adjacent properties, per the DPO's current Public Input Session notice requirements. Both standards exceed state

				statutory noticing requirements.
TEXT CHANGES			<p>Old Text: The petitioner shall also prepare a list of the owners of all properties within 1320 feet of the property for which the planning area change is requested and provide said list to the Planning Director. The petitioner shall obtain from the Planning Director a copy of the legal notice for public hearing at which the request is to be considered; and shall return copies to the Planning Director in stamped envelopes properly addressed to all property owners on the list described above no later than twenty five working days prior to the date of the public hearing. The Planning Director shall mail these copies of the legal notice to the property owners no later than ten days prior to the date of the public hearing. The Planning Director shall also place a sign or other legible notice on the property on which the planning area change is requested at least ten days before the public hearing.</p> <p>New Text: The petitioner shall also prepare and distribute public notices of the Map Amendment according to the following:</p> <ul style="list-style-type: none"> A. If the proposal involves less than five properties or ten acres, the petitioner shall mail all properties within 1,320 feet of the subject properties. If the proposal involves five or more properties or ten or more acres, the petitioner shall mail adjacent properties and those properties within 100' of adjacent properties, as defined by this ordinance. B. The petitioner shall provide a list to the Planning Director of the owners of all properties required to be mailed under 14.21.3.A. C. The petitioner shall obtain from the Planning Director a copy of the legal notice for public hearing at which the request is to be considered; and, shall return copies to the Planning Director in stamped envelopes properly addressed to all property owners on the list described above no later than twenty five working days prior to the date of the public hearing. D. The Planning Director shall mail these copies of the legal notice to the property owners no later than ten days prior to the date of the public hearing. E. The Planning Director shall also place a sign or other legible notice on the property on which the planning area change is requested at least ten days before the public hearing. 	
14-42	14.21.3	REQUIRED PLANS & PUBLIC NOTIFICATION	The text should be modified to include scope for the Planning Director to require a Public Input Session for select project	Revise the text to provide scope for the Planning Director to require a Public Input Session for Map Amendments.

			proposals, including Map Amendments.	
TEXT CHANGES			Old Text: N/A [DNE] New Text: [Last Sentence] Additionally, at the Planning Director’s discretion, a Public Input Session in accordance with ordinance provisions may be required as part of the Map Amendment approval process.	
SECTION 16 – DEFINITIONS				
16-11	16.3	DEFINITIONS, F	The ordinance language must be updated to be consistent with statewide legislation regarding building massing.	Include language that identifies the façade based on building massing elements.
TEXT CHANGES			Old Text: 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. New Text: Façade, Front: The widest portion of the building elevation on the first floor encompassing habitable, conditioned space and facing the primary publicly-accessible right-of-way, pedestrian way, or open space. For the definition of Habitable Space, see the NC Building Code.	
16-15	16.3	DEFINITIONS, L	The DPO now includes a reference to dual-frontage lots, which must be defined.	Provide a definition for dual-frontage lots.
TEXT CHANGES			Old Text: N/A [DNE] New Text: Lot Types, 2. Dual-Frontage: An interior lot with parcel frontage on two separate streets or rights-of-way.	
16-16	16.3	DEFINITIONS, M	The description of the Master Plan should be revised to include language consistent with the definition included in Section 14, which clarifies that this means a plan for more than two buildings.	Revise the description of Master Plan to be consistent with Section 14 and more clearly identify what qualifies as a Master Plan.
TEXT CHANGES			Old Text: Master Plan: A plan depicting 1) more than two buildings on a single lot, or 2) subdivision of land that is not a low impact, conservation, or exempt subdivision. New Text: Master Plan: A plan depicting more than two principal buildings on a single lot, buildings planned concurrently as part of the same development process, or any development subject to this ordinance not clearly falling under one of the categories listed in Section 14.	

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 improvement or clarification of text, or the inclusion of items inadvertently missed in the drafting 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. PLANNING BOARD RECOMMENDATION

At the January 30th, 2017 meeting, the proposed text amendments came before the Planning Board for a formal recommendation. The Planning Board voted 10-0 in support of the proposed text amendments and signed a consistency statement.

4. 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.