



## MEMO

Date: February 27, 2017  
 To: Board of Commissioners  
 From: Jason Burdette, Planning Director  
 Re: Davidson Planning Ordinance Text Amendments/ RAP Implementation Update, Staff Analysis

### 1. TEXT AMENDMENTS

#### TEXT CHANGES – PROPOSED AMENDMENTS/RAP IMPLEMENTATION UPDATE

The following is a list of proposed text changes to the Town of Davidson Planning Ordinance (DPO). The listed changes are being undertaken in response to the recommendations made by the Rural Area Plan, which was adopted on September 13, 2016. Proposals are organized by page number.

PROPOSED TEXT CHANGES				
PAGE	SECTION	TITLE	ISSUE	PROPOSED MODIFICATION
SECTION 2 – PLANNING AREAS				
2-55	2.2.12.A	DESCRIPTION	The proposed RAP standards warrant clarification of this Planning Area's purpose – as a context featuring a variety of building types that transitions from more urban areas like Neighborhood General to rural areas.	Revise the language to emphasize Neighborhood Edge's purpose as a transition from more urban areas to less urban areas.
TEXT CHANGES			<p>Old Text: The Neighborhood Edge Planning Area is established as a transition area between Davidson's rural periphery and its more urban areas.</p> <p>New Text: The Neighborhood Edge Planning Area is established to transition between Davidson's urban areas and its rural periphery.</p>	
2-56	2.2.12.C	NEIGHBORHOOD EDGE OPEN SPACE REQUIRED	RAP Action Item 4.1 calls for the continued preservation of open space through the development process, including continued emphasis on the prioritization of open space over density in areas further from mixed-use centers. As the transition area	Revise the Neighborhood Edge Planning Area standards to increase the open space required for this planning area from 40% to 45%.

			between more developed areas and more rural areas, Neighborhood Edge’s open space standards should be revised to increase the emphasis on open space prioritization.	
TEXT CHANGES			Old Text: [Table 2-43 Neighborhood Edge Open Space Table], Required Percent of Development: 40% Min.  New Text: Required Percent of Development: 45% Min.	
2-70	2.2.15.D	RURAL PLANNING AREA SITE DESIGN STANDARDS	RAP Action Item 7.5 recommends modifying the Rural Planning Area standards to be used exclusively for very low density development.	RAP Action Item 7.5 recommends modifying the Rural Planning Area standards to be used exclusively for very low density development.
TEXT CHANGES			Old Text: 1. Setback Requirements: The following...  New Text: 1. Development Options: Two development options are permitted in the Rural Planning Area: Option A: 1 unit per 2 acres + 50% open space with up to 16 permitted units. Option B: 1 unit per acre + 70% open space. At least 50% of the open space is required on-site with the balance permitted as either a payment-in-lieu or dedication of property off-site. 2. Setback Requirements: The following...	
2-70	2.2.15.D.2	TABLE 2-54 RURAL PLANNING AREA OPEN SPACE TABLE	RAP Action Item 7.5 recommends new open space standards for the Rural Planning Area.	<ul style="list-style-type: none"><li>▫ Modify Table 2-54 Rural Open Space to include Options A &amp; B.</li><li>▫ Include phrase after table referencing payment-in-lieu information in DPO Section 7.</li></ul>
TEXT CHANGES			Old Text:  [In Table]: Minimum Open Space 40% [All Development]  [After Table]: Certain open space reduction bonuses may be applicable. See Section 7.  New Text: [In Table] 1. Option A Min. 50%, Max. NA 2. Option B Min. 70% (50% Min. On-Site; 20% Max. off-site dedication or payment-in-lieu permitted).  [After Table] See Section 7 for information regarding open space and payment-in-lieu options.	
SECTION 6 – SUBDIVISION & INFRASTRUCTURE STANDARDS				

6-20	6.8.3.A	GREENWAYS	The RAP implementation process identified the need for a multi-use path along the east side of Shearer Rd. between East Rocky River Rd. and Dembridge Drive. This path is officially cited in the CRTPO Comprehensive Transportation Plan.	Modify 6.8.3.A to acknowledge the CRTPO CTP as an adopted plan that identifies relevant path facilities in Davidson’s jurisdiction.
TEXT CHANGES			<p>Old Text: Greenways and greenway connectors shall be constructed in accordance with the designated circulation system shown on the Davidson Walks &amp; Rolls Active Transportation Master Plan, the Parks and Recreation Master Plan and/or any other adopted plan.</p> <p>New Text: Greenways and greenway connectors shall be constructed in accordance with the designated circulation system shown on the Davidson Walks &amp; Rolls Active Transportation Master Plan, the Parks and Recreation Master Plan, the CRTPO Comprehensive Transportation Plan, and/or any other adopted plan.</p>	
SECTION 7 – PARKS & OPEN SPACE				
7-2	7.2.3.C [NEW]	CREDIT TOWARD OPEN SPACE CONSERVATION	RAP Action Item 4.6: The RAP recommends incentives to promote or encourage the retention of agricultural land within proposed developments.	<ul style="list-style-type: none"><li>▫ Include language outlining open space contribution mechanism as new item C.</li><li>▫ Utilize DPO 15, Violations &amp; Penalties, to establish clear enforcement criteria.</li></ul>
TEXT CHANGES			<p>Old Text: N/A [DNE]</p> <p>New Text: C. Agricultural Land: The open space requirements, but not the neighborhood park requirements, may be reduced by 1.5 acres for every acre of active farmland or may be reduced by 1.5 acres for every acre of land with more than 75% prime agricultural soils included in a new development. Qualifying farmland or soils must be secured through a conservation easement. The permanent conservation easement must be approved by the Planning Director and Town Attorney, and the Town reserves the right to conduct periodic reviews of farm activity on-site to determine compliance with the conservation easement. Additionally, the following criteria also apply:</p> <ol style="list-style-type: none"><li>1. The agricultural land must meet the definition of a farm or prime agricultural soils as defined by this ordinance, and it may not include tree-farming, timber production, or concentrated animal feeding operations;</li><li>2. The agricultural land must comprise at least 10 contiguous acres and be maintained as such for a minimum of 10 years;</li><li>3. All applicable open space criteria must be met;</li><li>4. The credit cannot be used to reduce the open space requirements by more than 25%;</li><li>5. Active farmland is not considered passive open space.</li></ol>	

7-11	7.5.1.5	STANDARDS FOR ALL OPEN SPACE	The Rural Area Plan seeks to achieve the 2001 Open Space Plan's goal of setting aside 50% of the ETJ as public-accessible open space. The standards for open space need to be modified to support this goal in coordination with the proposed open space set-asides required in each planning area.	Revise the text to specify that open space must be publicly-accessible unless its inherent biological features cannot support public access.
TEXT CHANGES			<p>Old Text: N/A [DNE]</p> <p>New Text: 5. All open space must be publicly-accessible unless the land's biological features and conservation values as determined by the Planning Director or their designated administrator are deemed to require protection.</p>	
7-11	7.6.1.B.1	OWNERSHIP CONDITIONS	RAP Action Items 4.1-4.3 call for increased emphasis on open space preservation, but the current ordinance lacks mechanisms to ensure that publicly-accessible open space is maintained for its conservation value long-term in accordance with an established plan.	Modify the ordinance to include provisions that incorporate financial review of long-term maintenance plans into the easement-approval process.
TEXT CHANGES			<p>Old Text: ...must be accompanied by a long-term maintenance plan.</p> <p>New Text: ...must be accompanied by a long-term management plan. Management plans must be consistent with <i>LTA Standards &amp; Practices</i> and deemed to be financially viable by the Town Attorney or their designated administrator. Plans must be approved and contracts, easements, funds, etc. established prior to issuance of any Final Plat approval by the Town of Davidson.</p>	
7-11	7.6.1.B.3	OWNERSHIP CONDITIONS	RAP Action Items 4.1-4.3 call for increased emphasis on open space preservation, but the current ordinance lacks mechanisms to ensure that publicly-accessible open space is maintained for its conservation value long-term in accordance with an established plan.	Modify the ordinance to include provisions that incorporate established baseline standards into the easement-approval process.
TEXT CHANGES			<p>Old Text: Ownership by a homeowner's association or private owner must be accompanied by a permanent conservation easement placed on the land.</p> <p>New Text: Ownership by a homeowner's association or private owner must be accompanied by a permanent conservation easement placed on the land. Each conservation easement must be accompanied by a stewardship endowment properly funded</p>	

			by the developer, consistent with the Land Trust Alliance (LTA) standards, and held by the conservation easement holder. At a minimum the endowment must cover annual monitoring, reporting, and maintenance costs to achieve Level I Stewardship Costs consistent with LTA standards and practices. See the LTA’s <i>Determining Stewardship Costs Manual</i> and LTA’s <i>Standards &amp; Practices</i> for further information.	
7-12	7.6.2.A	MAINTENANCE OF PARKS & OPEN SPACE	RAP Action Items 4.1-4.3 call for increased emphasis on open space preservation, but the current ordinance lacks mechanisms to ensure that publicly-accessible open space is maintained for its conservation value long-term in accordance with an established plan.	Modify the ordinance to include provisions that incorporate financial review of long-term maintenance plans into the easement-approval process.
TEXT CHANGES			Old Text: N/A [DNE]  New Text: [Last Sentence] Long-term management plans must include and maintain a long-term funding plan acceptable to the Planning Director that can only be used for maintaining the subject area. Failure to maintain the park or open space in compliance with the long-term maintenance plan will subject the violator to the penalties listed in Section 15.	
SECTION 14 – ADMINISTRATION & PROCEDURES				
14-25	14.15.1.B	ENVIRONMENTAL INVENTORY NATURAL FEATURES	RAP Action Item 4.6 calls for increased coordination with developers to preserve and cultivate agricultural lands as part of proposed development projects. Prime soils are the key component of maintaining vibrant farmland. The current DPO requires soils to be identified as part of a project’s initial Environmental Inventory (DPO 14.15.1.B) but does not list prime soils, specifically.	Modify the DPO to require identification of prime soils as part of the Environmental Inventory documentation.
TEXT CHANGES			Old Text: Show all important natural features influencing site design such as... floodplains indicating both the flood fringe and the floodway, soil types, and historical or cultural features...  New Text: Show all important natural features influencing site design such as... floodplains indicating both the flood fringe and the floodway, soil types (including prime agricultural soils), and historical or cultural features...	
SECTION 15 – VIOLATIONS				
15-6	15.3.4 [NEW]	OPEN SPACE VIOLATIONS	The DPO permits a reduction in open space area if active farmland is placed under conservation easement as part of a proposed development.	▫ Include language that disincentivizes the conversion of land set aside as agricultural land or soils within a

			To ensure use of the dedicated land as intended; to provide restitution to the Town for lost revenue; and, to account for the loss of open space, civil penalty language should be developed for farmland or prime soils that received an open space reduction credit but are no longer used or maintained as such.	proposed development from being discontinued in its use. ▫ Ensure the penalty creates a strong disincentive and, if the use is discontinued, that the Town recoups a financial reimbursement for permanently lost open space.
TEXT CHANGES			Old Text: N/A [DNE]  New Text: Failure to comply with this ordinance’s open space requirements will resulting in the following:  A. Violations of provisions regarding maintenance of open space will require restorative action to bring the subject area into compliance. Specifically, failure to maintain open space as prescribed by the governing documents/ownership conditions will be subject to a remediation plan determined by the Planning Director. The plan, including all required restorative actions, shall be at the expense of the party responsible for open space management of the subject area.  B. Violation of the provisions reducing open space wherein farmland or prime agricultural soils, as defined by this ordinance, are provided as part of development shall require: 1. Payment to the Town of Davidson of 1.5 times the property taxes of the development's original land area. This applies to all years in which property tax revenue was not received because the subject area was protected in a conservation easement. 2. Payment to the Town of Davidson’s open space fund the cost per acre for all acres of land not provided as open space that would have been required as open space at the time of plan approval. 3. Dedication of all land area as open space in accordance with the ordinance requirements.	
SECTION 16 – DEFINITIONS				
16-20	16.3	DEFINITIONS, P	RAP Action Item 4.6: The RAP recommends incentives to promote or encourage the retention of agricultural land within proposed developments. The proposed text changes address this recommendation through retention of farmland and/or prime agricultural soils, which allow cultivation. Currently, the DPO does not define prime agricultural soils.	Include a definition of prime farmland or agricultural soils utilizing language from the National Resources Conservation Service.
TEXT CHANGES			Old Text: N/A [DNE]	

			New Text: Prime Farmland and Soils: According to the National Resources Conservation Service, land or soils that have the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.	
16-28	16.3	DEFINITIONS, W	RAP Action Items 4.1-4.3 call for increased emphasis on open space preservation, including habitat needs. The current DPO references wildlife habitat but does not define it (7.5.1).	Modify the DPO to include a definition for wildlife habitat.
TEXT CHANGES			<p>Old Text: N/A [DNE]</p> <p>New Text: Wildlife Habitat areas are where animals live and where ecologically supportive environments provide animals the necessities of life, food, water, cover and places to raise young.</p>	

## 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. STAFF RECOMMENDATION

The proposed changes aim to implement the policies described in the Rural Area Plan approved by the Board of Commissioners in September 2016. 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.