



**TOWN OF DAVIDSON  
BOARD OF COMMISSIONERS**

**Town Hall Board Room - 216 S. Main Street  
August 28, 2018**

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**I. CALL TO ORDER**

**II. ANNOUNCEMENTS**

- (a) **Resolution 2018-21 Recognition of Mickey Pettus, Planning Board/Board of Adjustments Chair**
- (b) **Resolution 2018-22 Legislation for I-77 HOT Lanes Comprehensive Agreement**

**III. CHANGES TO AGENDA**

**IV. PUBLIC COMMENTS - The Board shall provide at least one period for public comment per month at a regular meeting.**

**V. PUBLIC HEARING**

- (a) **Public Hearing - Proposed DPO Section 18: Floodplain Ordinance Update**  
**Planning Director Jason Burdette**  
**Summary:** At the August 7, 2018 Board of Commissioners Meeting, Don Ceccarelli, PE, CFM, Program Manager with Charlotte- Mecklenburg Stormwater Services presented a Mecklenburg County Floodplain Ordinance Update. The Federal Emergency Management Agency (FEMA) updated Flood Insurance Rate Maps (FIRMs) for Mecklenburg County will become effective on November 16, 2018. The Town of Davidson must adopt an updated floodplain ordinance to include the new map date by the November 16, 2018 deadline or risk being suspended from the National Flood Insurance Program (NFIP).

**VI. CONSENT - Consent items are non-controversial and routine items. Prior to the board's adoption of the meeting agenda the request of any member to have an item moved from the consent agenda to old business must be honored by the board. All items on the consent agenda must be voted on and adopted by a single motion.**

- (a) **Consider Approval of Draft July Meeting Minutes**  
**Town Clerk Betsy Shores**  
**Summary:** Draft meeting minutes from July 10 and July 24

- (b) **Consider Approval of Revised Board Meeting Schedule  
Town Clerk Betsy Shores**  
**Summary:** Add Board Mini Retreat for Thursday, September 20, 2018 from 11:30am - 4:00pm to the Meeting Schedule
- (c) **Consider Approval of FY2018 Tax Collector's Settlement Statement for Mecklenburg and Iredell Counties  
Finance Director Pieter Swart**  
**Summary:** Enters the FY2018 Tax Collector's Settlement Statement for Mecklenburg and Iredell Counties into the official record of the Town of Davidson.
- (d) **Consider Approval of FY2019 "Order of Collection" for Mecklenburg and Iredell County Tax Collectors  
Finance Director Pieter Swart**  
**Summary:** The "Order of Collection" authorizes the Tax Collector to collect the ad valorem taxes as assessed by the office of the Tax Assessor. This item includes both Mecklenburg and Iredell Counties.
- (e) **Consider Approval for Financing of Backhoe  
Finance Director Pieter Swart**  
**Summary:** The Board will consider approval of the financing for the purchase of a new backhoe (R2018-23), and related budget amendment (BA2019-08). The Board appropriated \$20,000 in the FY2019 budget for debt service on the purchase of a new backhoe of the Public Works Department. The total amount to be financed is \$104,091. The loan has duration of 8 years with an interest rate of 3.42%. Annual debt service is \$15,094.
- (f) **Consider Approval of Request from Park at Beaty Task Force for Amendments to Resolution 2018-06  
Parks and Recreation Director Kathryn Spatz**  
**Summary:** This clarifies the charge of the Park at Beaty Street Task Force. The changes were discussed at the August 7 Board of Commissioners meeting.
- (g) **Consider Approval of Budget Amendments  
Finance Director Pieter Swart**  
**BA 2019-09:** Allocates \$50,000 of fund balance as requested by the Park at Beaty Street Task Force to complete the conceptualization phase of the project. The budget includes \$26,000 for the Land Survey and \$15,000 for the hydrology study.  
  
**BA 2019-10:** Recognizes the revenue from a \$5,000 grant received from the Arts and Sciences Council for the public art fund project, and the related expenses. The project is a sensory garden at Roosevelt Wilson Park.
- (h) **Consider Approval of Ordinance O2018-03 (DPO Section 17 Watershed Text Amendments) & Consistency Statement  
Planning Director Jason Burdette:** In March 2017, Mecklenburg County, the town's partner in administering the ordinance (with oversight from the NC Department of Environmental Quality, "NCDEQ"), requested that Davidson: update/clarify standards, address persistent issues and inconsistencies and, remove inapplicable sections. Over the past four months, staff has been

working with the Planning Board Ordinance Committee (PBOC) to review the watershed ordinance and proposed changes, and to suggest/draft edits. Adoption of a consistency statement is required by statute whenever a governing board adopts a text amendment.

- (i) **Consider Approval of Appointments of Chairs for the Design Review Board and Planning Board/Board of Adjustment**  
**Planning Director Jason Burdette**  
**Summary:** Due to recent chair vacancies for the Design Review Board and the Planning Board/Board of Adjustment, respective board bylaws and the Davidson Planning Ordinance require the chair of each board to be appointed by the Board of Commissioners. Bruce Barteldt is recommended for DRB and Matthew Dellinger is recommended for Planning Board/Board of Adjustment.
- (j) **Consider Approval of Art & Science Council (ASC) Advisory Council Appointments**  
**Town Manager Jamie Justice**  
**Summary:** The Arts & Science (ASC) seeks two Davidson citizens for its advisory council to represent the north/west region of Mecklenburg County. After reviewing the applications, the recommended appointments are Jacqueline Dienemann and Joyce Wynes, with Clayton Joe Young as the alternate. The appointment is for two (2) years ending on June 30, 2020.
- (k) **Consider Approval for a Noise Ordinance Variance - Fall Fling at Davidson College**  
**Town Clerk Betsy Shores**  
**Summary:** Davidson College is requesting a noise ordinance variance for the Fall Fling during Homecoming Weekend on Saturday, September 15, 2018 from 10:00 p.m. - 1:00 a.m. on Old Tennis Court Lane.
- (l) **Consider Approval to Direct Planning Board to Make a Recommendation within 30 Days on the Proposed DPO Text Amendments**  
**Planning Director Jason Burdette**  
**Summary:** The Davidson Planning Ordinance requires that the Planning Board provide a recommendation to the Board of Commissioners within 30 days of the public hearing.
- (m) **Consider Approval of Appointment of Park at Beaty Street Task Force Member**  
**Parks and Recreation Director Kathryn Spatz**  
**Summary:** To date, two citizens appointed to the Park at Beaty Street Task Force have resigned due to time commitments. This would appoint a new member from the original applicants. Frank Farina is recommended to be appointed.

**VII. OLD BUSINESS - Items for old business typically have been previously presented and for discussion and possible action.**

- (a) **Non-Profit Grant Allocations Process**  
**Parks and Recreation Director Kathryn Spatz**  
**Summary:** Historically the Board of Commissioners asked the Livability Board to review the Non-Profit Grant applications submitted and make recommendations for allocation of \$50,000 appropriated for contributions.

- (b) **Comprehensive Plan Consultant Recommendation and Approval**  
**Public Information Officer Cristina Shaul and Clarion Associates Project Manager Leigh Anne King**  
**Summary:** A comprehensive plan is the leading policy document and tool to help communities create a vision and guiding principles for decision-making for their town. The comprehensive plan's purpose is to directly inform decisions that we make as a community. It does so by helping us to understand our historical context, identify current or anticipated issues, evaluate options for how to best proceed, and establish a set of policies to accomplish our aims. The board of commissioners identified the comprehensive plan as a priority in their 2018-2019 Strategic Plan.
- To assist with public engagement, visioning, and plan composition, an experienced consultant, Clarion Associates, was selected by a commissioner-appointed committee of citizens, staff, advisory board representatives, and elected officials.
- At the August 7 board of commissioners meeting, the committee recommended Clarion Associates as the consultant for this project. The Davidson Board of Commissioners requested a visit from Clarion Associates at the August 28 meeting before considering approval.
- The Comprehensive Plan RFP/Consultant-Selection Committee comprised of citizens, commissioners, advisory board representatives, and staff recommend the approval of Clarion Associates as the consultant to help the Town of Davidson facilitate our comprehensive plan process.
- (c) **Consider Approval of Ordinance 2018-04 (DPO Text Amendments Reducing Scale of Village Infill Building Types) and Consistency Statement, with Public Comment**  
**Planning Director Jason Burdette**  
**Summary:** The Board of Commissioners directed staff to review building types, specifically reducing the scale of buildings and developing a context-sensitive strategy. Staff proposes removing the multi-family building type in the VIP and replacing it with two Mixed Village options, both reduced in scale.
- (d) **Consider Approval of Water/Sewer Policy Version from 6/05/2018**  
**Town Manager Jamie Justice**  
**Summary:** Staff was asked to bring forth a draft water and sewer extension policy for the town board to consider. Two drafts have been created for consideration. One is the June 5, 2018 version which applies to properties in the extraterritorial jurisdiction (ETJ). The second is the August 7, 2018 version which applies to properties in the extraterritorial jurisdiction not included in the rural area plan.
- Both versions were reviewed with the town board at the August 7, 2018 board meeting. The board decided to consider approving the

June 5, 2018 version at the August 28, 2018 board meeting. The June 5, 2018 version essentially creates a written policy where previously it was an unwritten policy and also changes who makes the decision from the town manager to the town board.

(e) **Consider Approval of Water/Sewer Policy Requests**

**Town Manager Jamie Justice**

**Summary:** Under the town's agreement with Charlotte Water, the town approves any water and sewer extension (extension of water and sewer lines to serve a property that is not a connection to existing lines adjacent to a property) to service a property. There are two extension requests that would be applicable under the June 5, 2018 draft policy should this policy be approved earlier in this August 28, 2018 Board meeting agenda. The Board should consider each one individually:

1. Mayes Hall. The developers of Mayes Hall propose +/-66 dwelling units on 24 acres in the Neighborhood Edge Planning Area. PID: 00716206, 00716286, 00716207.
2. Potts Development. The developers of Potts Development propose +/-250 multi-family dwelling units on 15.441 acres in the Village Infill Planning Area. PID: 00320511, 00320536, 00324101.

(f) **Consider Approval of Annexation Policy**

**Town Manager Jamie Justice**

**Summary:** The annexation policy outlines both the policies under which voluntary annexations will be considered and the process for voluntary annexation requests. The decision to approve a voluntary annexation request is at the Board's discretion. The process for the annexation is outlined in state statutes. This is a process that the town has followed for many years, but, other than the procedural forms prescribed by statute, has not been codified in a written policy.

**VIII. NEW BUSINESS**

(a) **Discussion on Sidewalk Projects**

**Public Works Director Doug Wright**

**Summary:** The town has three sidewalk projects that are shovel-ready, and one project that is shovel-ready, except for property acquisition. We currently have \$300,000 allocated for sidewalk projects – monies from FY2018 & FY2019. We are seeking input on which project(s) to start, and potentially how to fund them.

**IX. SUMMARIZE MEETING ACTION ITEMS - Town Manager will summarize items where the board has requested action items for staff.**

**X. ADJOURN**



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**Agenda Title:**      **Resolution 2018-21 Recognition of Mickey Pettus, Planning Board/Board of Adjustments Chair**

**Summary:**

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**ATTACHMENTS:**

<b>Description</b>		<b>Upload Date</b>	<b>Type</b>
□	Resolution 2018-21 Recognition of Mickey	8/24/2018	Cover Memo
	Pettus, Planning Board/Board of Adjustments Chair		



**RESOLUTION 2018-21**  
**Appreciation for Mickey Pettus**  
**Planning Board Member and Chair**  
**2013 - 2018**

**WHEREAS,** Mickey Pettus was a member of the Davidson Planning Board for six years and chair for three years; and

**WHEREAS,** he chaired the Planning Board with integrity, enthusiasm, and overall distinction; and

**WHEREAS,** he believed in the planning process and guided the membership of the board to consider all viewpoints and navigate challenging issues with fairness and equanimity; and

**WHEREAS,** Mickey is a trusted and conscientious public servant who always responded when his community needed his expertise, including participation in task forces, assessment centers, and steering committees; and

**WHEREAS,** his diligence on behalf of the town has earned the respect of town staff, the Mayor and Commissioners;

**THEREFORE,** the Mayor and Board of Commissioners thank Mickey Pettus for his service to the Town of Davidson and wish him Godspeed.

**Adopted on this 28<sup>th</sup> day of August 2018.**

\_\_\_\_\_  
Rusty Knox, Mayor

Attest:

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Elizabeth K. Shores, Town Clerk



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**Agenda Title:**      **Resolution 2018-22 Legislation for I-77 HOT Lanes Comprehensive Agreement**

**Summary:**

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**ATTACHMENTS:**

	<b>Description</b>	<b>Upload Date</b>	<b>Type</b>
□	Resolution 2018-22 I-77 HOT Lanes and STI	8/22/2018	Cover Memo



**RESOLUTION 2018-22**  
**RESOLUTION REQUESTING THE GENERAL ASSEMBLY ENACT LEGISLATION**  
**EXEMPTING CHANGE OF SCOPE, MODIFICATION, OR CANCELLATION OF**  
**THE I-77 HOT LANES COMPREHENSIVE AGREEMENT FROM THE STRATEGIC**  
**TRANSPORTATION INVESTMENT PROCESS**

**WHEREAS**, NCGS 136-189.11 prescribes the process for scoring, ranking and prioritizing funding for transportation projects for the State of North Carolina under a process known as the Strategic Transportation Investments process (STI); and

**WHEREAS**, STI was never intended to score or rank changes in scope to a contract, nor modifications thereof, nor cancellation thereof; and

**WHEREAS**, applying STI to changes in scope, modifications or cancellation of the I77 HOT Lanes Comprehensive Agreement (the CA) has forced NCDOT to develop solutions with unacceptable delays and greatly increased costs as presented at the August 15, 2018 I77 Advisory Group meeting.

**THEREFORE**, the Mayor and Town of Davidson Board of Commissioners finds applying the STI to score, rank and prioritize changes in scope, modifications or cancellation of the CA to be a misapplication of STI, and respectfully requests the North Carolina General Assembly (NCGA) enact legislation exempting any change of scope, modification, or cancellation of the CA from the STI and, further request that this legislation be enacted at the earliest possible opportunity.

**Adopted on this 28<sup>th</sup> day of August 2018.**

\_\_\_\_\_  
Rusty Knox, Mayor

Attest:

\_\_\_\_\_  
Elizabeth K. Shores, Town Clerk



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**Agenda Title: Public Hearing - Proposed DPO Section 18: Floodplain Ordinance Update  
Planning Director Jason Burdette**

**Summary:** At the August 7, 2018 Board of Commissioners Meeting, Don Ceccarelli, PE, CFM, Program Manager with Charlotte- Mecklenburg Stormwater Services presented a Mecklenburg County Floodplain Ordinance Update. The Federal Emergency Management Agency (FEMA) updated Flood Insurance Rate Maps (FIRMs) for Mecklenburg County will become effective on November 16, 2018. The Town of Davidson must adopt an updated floodplain ordinance to include the new map date by the November 16, 2018 deadline or risk being suspended from the National Flood Insurance Program (NFIP).

**Summary:**

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**ATTACHMENTS:**

	<b>Description</b>	<b>Upload Date</b>	<b>Type</b>
□	Agenda Memo - Proposed Floodplain Ordinance Update	8/21/2018	Cover Memo
□	DPO 18: Floodplain Update Staff Analysis	8/21/2018	Backup Material
□	DPO 18: Floodplain Update Draft Ordinance	8/24/2018	Cover Memo
□	DPO 18: Floodplain Update Presentation	8/21/2018	Presentation



## STAFF ANALYSIS: FLOODPLAIN ORDINANCE TEXT AMENDMENTS

Date: August 28, 2018  
To: Davidson Board of Commissioners  
From: Jason Burdette, Planning Director  
Re: Davidson Planning Ordinance Section 18 (Floodplain Ordinance) - Text Amendments

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*Note: The following summary reviews the purpose and history of the proposed changes; highlights substantive changes; and, includes discussion topics related to Davidson Planning Ordinance (DPO) Section 18. Proposed changes are annotated in the draft DPO accompanying these materials.*

### 1. OVERVIEW

As part of its routine work, the Federal Emergency Management Agency (FEMA) updated Flood Insurance Rate Maps (FIRMs) for Mecklenburg County with an effective date of November 16, 2018. The Town of Davidson must adopt an updated floodplain ordinance to include the new map date by the November 16, 2018 deadline or risk being suspended from the National Flood Insurance Program (NFIP).

Additionally, the North Carolina Department of Public Safety (NCDPS) made changes to their Model Floodplain Ordinance in 2017, which included both mandatory and suggested changes. Charlotte-Mecklenburg Stormwater Services (CMSS) staff formed a stakeholder group to review this updated model ordinance and provided a draft Floodplain Ordinance for the Town of Davidson on July 24, 2018. This updated ordinance has been endorsed by the Storm Water Advisory Committee (SWAC) and stakeholder group. The NCDPS also reviewed the updated floodplain ordinance and deemed it compliant with NFIP requirements.

### 2. PROPOSED CHANGES

A number of revisions were made to the ordinance for consistency and clarity, including renumbering of ordinance section references, correction of typographic errors, and revisions to include new terms that are now used throughout the ordinance. Most of the proposed changes are a result of NCDPS Model Ordinance recommendations. The remaining changes are Mecklenburg County floodplain staff recommendations. Substantive changes are highlighted below.

#### SECTION 18.2: DEFINITIONS

The following definitions were added/removed/revised per Mecklenburg County recommendation for consistency, clarity, and in some cases to meet state minimum requirements.

- **Terms Not Previously Defined:** Alteration of a Watercourse, Existing Building and Existing Structure, Flood-resistant Material, Floodway Engineering Analysis, Light Duty Truck, No-Rise

Certification, Preliminary Flood Insurance Rate Map (PFIRM), Preliminary Flood Insurance Study (PFIS), and Temperature Controlled

- **Revised Definitions:** Conditional Letter of Map Revision (CLOMR), Floodway, Letter of Map Revision (LOMR), Letter of Map Revision Based on Fill (LOMR-F), North American Vertical Datum, Recreational Vehicle, Repetitive Loss, Substantial Damage, Substantial Improvement, and Technically Measurable
- **Definitions Removed:** Mean Sea Level

### SECTION 18.3 GENERAL PROVISIONS

- **Applicability:** Language was added to clarify that the floodplain regulations apply within town limits and the extra-territorial jurisdiction (ETJ).
- **Updated Flood Insurance Rate Maps:** The effective date of updated Flood Insurance Rate Maps (FIRMS) was added to the ordinance, as required by FEMA.
- **Preliminary FIRM Language Added:** Per county floodplain staff recommendation, language was added to provide additional floodplain protection. In areas where a Preliminary FIRM and Preliminary FIS exist, the higher of the preliminary and effective elevations shall be used for regulatory purposes.

### SECTION 18.4 ADMINISTRATION AND ENFORCEMENT

- **FEMA Required Revision:** As of October 1, 2010, FEMA requires documentation of compliance with the Endangered Species Act prior to issuing a floodplain permit. This requirement was added to Section 18.4.2.4.E.

### SECTION 18.6 PROVISIONS FOR FLOOD HAZARD REDUCTION

- **Clarification for Replacement of Equipment:** Per NCDPS Model Ordinance, language was added under Section 18.6.1.A.5 to clarify that equipment may be replaced without being elevated, unless part of a substantial improvement. Language was also added to encourage property owners to locate replacement equipment at compliant elevations. Equipment located at compliant elevations are not required to be included as part substantial improvement costs.
- **Notice of Floodplain Improvements for Residential Construction:** Under Section 18.6.2.1.B, the current threshold for notice of non-substantial improvements are those costing between 25% and 50% of the market value of the existing building. Mecklenburg County staff recommend reducing the threshold for notice of non-substantial improvements to those costing between 10% and 50% of the market value of the existing building. Because improvement costs are cumulative over a 10-year period, lowering the notice threshold to 10% will enable the county to ensure earlier on that property owners are aware of the 50% threshold at which the floodplain standards come into effect.
- **Insert Section on Temporary Encroachments:** Section 18.6.2.6.D was added per county floodplain staff recommendation. This language allows for temporary encroachments into the floodplain without requiring a flood study. Examples of temporary encroachments include but are not limited to: sediment control devices, temporary stream crossings, storage of equipment, etc. Temporary encroachments require an Individual Floodplain Development Permit from the county.
- **Insert Section on Gas and Liquid Storage Tanks:** Section 18.6.2.14 was added per NCDPS Model Ordinance Recommendation to meet the state minimum requirements and to prevent tank failure during flooding conditions.

- **Insert Section on Fill:** Section 18.6.2.15 was added as required by FEMA. As of October 1, 2010, FEMA requires documentation of compliance with the Endangered Species Act prior to issuing a floodplain permit for the placement of fill within Special Flood Hazard Areas.



## STAFF ANALYSIS: FLOODPLAIN ORDINANCE TEXT AMENDMENTS

Date: August 28, 2018  
To: Davidson Board of Commissioners  
From: Jason Burdette, Planning Director  
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As part of its routine work, the Federal Emergency Management Agency (FEMA) updated Flood Insurance Rate Maps (FIRMs) for Mecklenburg County with an effective date of November 16, 2018. The Town of Davidson must adopt an updated floodplain ordinance to include the new map date by the November 16, 2018 deadline or risk being suspended from the National Flood Insurance Program (NFIP).

Additionally, the North Carolina Department of Public Safety (NCDPS) made changes to their Model Floodplain Ordinance in 2017, which included both mandatory and suggested changes. Charlotte-Mecklenburg Stormwater Services (CMSS) staff formed a stakeholder group to review this updated model ordinance and provided a draft Floodplain Ordinance for the Town of Davidson on July 24, 2018. This updated ordinance has been endorsed by the Storm Water Advisory Committee (SWAC) and stakeholder group. The NCDPS also reviewed the updated floodplain ordinance and deemed it compliant with NFIP requirements.

### 2. PROPOSED CHANGES

A number of revisions were made to the ordinance for consistency and clarity, including renumbering of ordinance section references, correction of typographic errors, and revisions to include new terms that are now used throughout the ordinance. Most of the proposed changes are a result of NCDPS Model Ordinance recommendations. The remaining changes are Mecklenburg County floodplain staff recommendations. Substantive changes are highlighted below.

#### SECTION 18.2: DEFINITIONS

The following definitions were added/removed/revised per Mecklenburg County recommendation for consistency, clarity, and in some cases to meet state minimum requirements.

- **Terms Not Previously Defined:** Alteration of a Watercourse, Existing Building and Existing Structure, Flood-resistant Material, Floodway Engineering Analysis, Light Duty Truck, No-Rise

Certification, Preliminary Flood Insurance Rate Map (PFIRM), Preliminary Flood Insurance Study (PFIS), and Temperature Controlled

- **Revised Definitions:** Conditional Letter of Map Revision (CLOMR), Floodway, Letter of Map Revision (LOMR), Letter of Map Revision Based on Fill (LOMR-F), North American Vertical Datum, Recreational Vehicle, Repetitive Loss, Substantial Damage, Substantial Improvement, and Technically Measurable
- **Definitions Removed:** Mean Sea Level

### SECTION 18.3 GENERAL PROVISIONS

- **Applicability:** Language was added to clarify that the floodplain regulations apply within town limits and the extra-territorial jurisdiction (ETJ).
- **Updated Flood Insurance Rate Maps:** The effective date of updated Flood Insurance Rate Maps (FIRMS) was added to the ordinance, as required by FEMA.
- **Preliminary FIRM Language Added:** Per county floodplain staff recommendation, language was added to provide additional floodplain protection. In areas where a Preliminary FIRM and Preliminary FIS exist, the higher of the preliminary and effective elevations shall be used for regulatory purposes.

### SECTION 18.4 ADMINISTRATION AND ENFORCEMENT

- **FEMA Required Revision:** As of October 1, 2010, FEMA requires documentation of compliance with the Endangered Species Act prior to issuing a floodplain permit. This requirement was added to Section 18.4.2.4.E.

### SECTION 18.6 PROVISIONS FOR FLOOD HAZARD REDUCTION

- **Clarification for Replacement of Equipment:** Per NCDPS Model Ordinance, language was added under Section 18.6.1.A.5 to clarify that equipment may be replaced without being elevated, unless part of a substantial improvement. Language was also added to encourage property owners to locate replacement equipment at compliant elevations. Equipment located at compliant elevations are not required to be included as part substantial improvement costs.
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- **Insert Section on Temporary Encroachments:** Section 18.6.2.6.D was added per county floodplain staff recommendation. This language allows for temporary encroachments into the floodplain without requiring a flood study. Examples of temporary encroachments include but are not limited to: sediment control devices, temporary stream crossings, storage of equipment, etc. Temporary encroachments require an Individual Floodplain Development Permit from the county.
- **Insert Section on Gas and Liquid Storage Tanks:** Section 18.6.2.14 was added per NCDPS Model Ordinance Recommendation to meet the state minimum requirements and to prevent tank failure during flooding conditions.

- **Insert Section on Fill:** Section 18.6.2.15 was added as required by FEMA. As of October 1, 2010, FEMA requires documentation of compliance with the Endangered Species Act prior to issuing a floodplain permit for the placement of fill within Special Flood Hazard Areas.

# FLOODPLAIN OVERLAY DISTRICT 18

## SECTIONS

18.1	GENERAL	PAGE 18-1
18.2	DEFINITIONS	PAGE 18-3
18.3	GENERAL PROVISIONS	PAGE 18-13
18.4	ADMINISTRATION AND ENFORCEMENT	PAGE 18-16
18.5	APPEALS AND VARIANCES	PAGE 18-24
18.6	PROVISIONS FOR FLOOD HAZARD REDUCTION	PAGE 18-28
18.7	LEGAL STATUS PROVISIONS	PAGE 18-39

## 18.1 GENERAL

### 18.1.1 SHORT TITLE

The regulations set out in this ordinance (sometimes herein referred to as “this regulation” or “this ordinance”) shall be known and may be cited as the “Floodplain Regulations of Davidson, North Carolina.”

### 18.1.2 STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

### 18.1.3 FINDINGS OF FACT

The flood hazard areas of Davidson and Davidson’s Land Use jurisdiction are subject to periodic inundation which results in loss of life, increased health and safety hazards, destruction of property, and disruption of commerce and governmental services. Inundation from flood waters results in public expenditures for flood protection, flood disaster relief, and

## **Floodplain Overlay District**

impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are created by the cumulative effect of obstructions in Floodplains, causing increases in flood heights and velocities and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, floodproofed or otherwise unprotected from flood damages.

### **18.1.4 STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A.** Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
- B.** Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C.** Control the alteration of natural Floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters;
- D.** Control filling, grading, dredging and other Development which may increase erosion or flood damage; and
- E.** Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

### **18.1.5 OBJECTIVES**

The regulations of the Special Flood Hazard Areas herein set forth are intended to protect areas of designated Floodplains subject to and necessary for regulating flood waters and to permit and encourage the retention of open-land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the Town as provided in the comprehensive plans as such are adopted and amended from time to time.

The specific intent in establishing Special Flood Hazard Areas composed of floodways and flood fringe areas includes the following:

- A.** To control uses such as fill dumping, storage of materials, structures, buildings and any other works which, acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows and reducing floodplain storage;
- B.** To protect human life and health;
- C.** To minimize the expenditure of public money for costly flood-control projects;
- D.** To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

## Floodplain Overlay District

- E. To permit certain uses which can be appropriately located in flood hazard areas and to assure such permitted uses will not impede the flow of flood waters or otherwise cause danger to life and property at or above or below their locations along the floodways;
- F. To minimize prolonged business interruptions;
- G. To protect existing drainage courses that carry abnormal flows of stormwater in periods of heavy precipitations;
- H. To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in Floodplains;
- I. To meet the needs of the streams to carry flood waters and protect the creek channels and Floodplains from Encroachment so that flood heights and flood damage will not be increased;
- J. To inform existing and potential property owners that property is in a Special Flood Hazard Area as well as the associated flood risks and development restrictions;
- K. To minimize future flood losses by depicting Community Flood Fringe Areas on the Flood Insurance Rate Maps and;
- L. To help maintain a stable tax base by providing for the sound use and development of flood prone areas.

This ordinance is intended to permit only that Development within the Floodplain which is appropriate in light of the probability of flood damage and presents a reasonable social and economic use of land in relation to the hazards involved. The regulations hereinafter set forth shall apply to all property located within the Special Flood Hazard Area as shown on the Flood Insurance Rate Maps (FIRM) including FEMA and/or locally approved revisions to data shown on the FIRMs. It is the intent that these regulations combine with and coordinate with the planning ordinance regulations for the planning area in which such property is located. Any use not permitted by the planning ordinance shall not be permitted in the Special Flood Hazard Area, and any use permitted by the ordinance regulations shall be permitted in these districts only upon meeting conditions and requirements as prescribed in this ordinance.

## 18.2 DEFINITIONS

Unless specifically defined in this section, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**Accessory Structure:** A structure which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

## Floodplain Overlay District

**Addition:** (to an existing building) An extension or increase in the floor area or height of a building or structure.

**Alteration of a Watercourse:** means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification associated with development which may increase the FEMA or Community Base Flood Elevations.

**Appeal:** A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

**Basement:** Any area of the building having its floor subgrade (below ground level) on all sides.

**Building:** Any structure built for support, shelter or enclosure for any occupancy or storage.

**Chemical Storage Facility:** A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

**Community Base Flood:** The flood determined using future land use conditions having a one percent chance of being equaled or exceeded in any given year.

**Community Base Flood Elevation:** The elevation shown on the Flood Insurance Rate Map Flood Hazard Data Table, having a one percent chance of being equaled or exceeded, determined using future land use conditions.

**Community Conditional Letter of Map Revisions (CoCLOMR):** A letter from the Floodplain Administrator that provides conditional approval of a study that proposes to change the location of the Community Encroachment Lines, and/or the location of the Community Flood Fringe Line, and/or Community Base Flood Elevations.

**Community Encroachment Area:** The channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood without cumulatively increasing the water surface elevation more than 0.1 foot.

**Community Encroachment Lines:** Lateral limits of the Community Encroachment Area, within which, in the direction of the stream or other body of water, no structure or fill may be added, unless specifically permitted by this ordinance.

**Community Flood Fringe Area:** The land area located between the Community Encroachment Line and the Community Flood Fringe Line as defined herein.

**Community Flood Fringe Line:** The line that depicts the outer limits of the Community Flood Fringe Area (outer limits of the Community Special Flood Hazard Area).

**Community Letter of Map Revision (CoLOMR):** A letter from the Floodplain Administrator that provides final approval of a study, based on as-built conditions, that changes the location of the Community Encroachment Lines and/or the Community Flood Fringe Lines.

**Community Special Flood Hazard Area:** The land subject to a one percent or greater chance of flooding in any given year from a Community Base Flood. It includes the FEMA Floodway, Community Encroachment Area, FEMA Flood Fringe Area, and the Community Flood Fringe Area.

**Conditional Letter of Map Revision (CLOMR):** [A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects](#)

**Commented [CD1]:** Per Model Ordinance, add the proposed definition into ordinance with staff modifications to clarify that this does not include natural watercourse changes nor changes that do not increase the base flood elevations

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## Floodplain Overlay District

with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

**Critical Facility:** A building used to house a function that is vulnerable or essential to the community. Uses include but are not limited to: child and adult day care facilities, nursing homes, schools, hospitals, fire, police and medic facilities and other uses as deemed by the Floodplain Administrator.

**Development:** Any man-made change to improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations or storage of equipment or materials.

**Disposal:** As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

**Dry Public Street:** A public street at the intersection of a proposed driveway where the surface of the pavement is at an elevation above the Community Base Flood Elevation

**Dryland Access:** A gravel, paved or concrete access route, at least 12 feet wide, which is above the Community Base Flood Elevation and connects a Habitable Building to a Dry Public Street.

**Elevated Building:** A non-basement building built to have the lowest floor elevated above the ground level by, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

**Encroachment:** The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain. Building renovations contained within the existing building footprint area are not considered an Encroachment.

**Existing Manufactured Home Park or Manufactured Home Subdivision:** A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) was completed before January 10, 1995 the initial effective date of the floodplain management regulations adopted by the community.

**Existing Building and Existing Structure:** Any building and/or structure for which the "start of construction" commenced before the effective date of the initial Flood Insurance Rate Map.

**FEMA:** The Federal Emergency Management Agency.

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## Floodplain Overlay District

**FEMA Base Flood:** The flood determined using land use conditions at the time of the study having a one percent chance of being equaled or exceeded in any given year.

**FEMA Base Flood Elevation (BFE):** A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. It is the elevation that indicates the water surface elevation resulting from a FEMA Base Flood that has a one percent chance of equaling or exceeding that level in any given year based on existing land use.

**FEMA Flood Fringe Area:** The land area located between the FEMA Floodway Lines and the line depicting the maximum elevation subject to inundation by the FEMA Base Flood as defined herein.

**FEMA Flood Fringe Line:** The line on a map that depicts the outer limits of the *FEMA Flood Fringe Area*.

**FEMA Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood, without cumulatively increasing the water surface elevation more than 0.5 foot. On the Catawba River, and the portions of Six Mile Creek and Rocky River which run along the county boundary line, the FEMA Floodway means the channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood, without cumulatively increasing the water surface elevation more than 1.0 feet.

**FEMA Floodway Lines:** The lateral limits of the FEMA Floodway.

**FEMA Special Flood Hazard Area:** The land subject to a one percent or greater chance of flooding in any given year from a FEMA Base Flood. It includes the FEMA Floodway, Community Encroachment Area, and the FEMA Flood Fringe Area.

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and
2. The unusual and rapid accumulation of run-off of surface waters from any source.

**Flood Insurance:** The insurance coverage provided under the National Flood Insurance Program.

**Flood Insurance Rate Map (FIRM):** An official map of a community, in both digital and printed format, on which the Federal Emergency Management Agency has delineated the Special Flood Hazard Area and the risk premium zones applicable to the community. The date of Davidson's original FIRM is June 1, 1981, and this date should be used to determine whether a structure is pre-FIRM or post-FIRM.

**Flood Insurance Study:** An examination, evaluation, and determination of Special Flood Hazard Areas, corresponding water surface elevations, flood insurance risk zones, and other flood data in a community. The study includes a Flood Insurance Study report, and/or Flood Insurance Rate Map (FIRMs).

**Floodplain:** The land subject to inundation by the Community Base Flood and is encompassed by the Community Special Flood Hazard Area.

## Floodplain Overlay District

**Floodplain Administrator:** (or Administrator) The person, agent, or his or her designees, appointed to administer, implement and enforce the provisions of this ordinance.

**Floodplain Development Permit:** Either an Individual Floodplain Development Permit or a General Floodplain Development Permit issued for development in the Floodplain per the requirements of Section 18.4 of this ordinance.

**Floodplain Management:** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**Floodplain Management Regulations:** This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

**Floodproofing:** Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

**Flood Protection Elevation:** The elevation to which all structures located within the Community Special Flood Hazard Area must be elevated (or floodproofed if non-residential). Within areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the Community Base Flood Elevation plus one (1) foot of freeboard (except along the Catawba River where it is the FEMA Base Flood Elevation plus two (2) feet of freeboard). In areas where no BFE has been established, all structures and other Development must be elevated (or floodproofed if non-residential), to two (2) feet above the highest adjacent grade.

**Flood-resistant Material** means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

**Floodwall:** A wall built along a shore or bank to protect an area from flooding.

**Floodway:** The either the FEMA Floodway or the Community Encroachment Area, including the area above a bridge or culvert when applicable. **Floodway Engineering Analysis:** An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and flood levels during the occurrence of the

**Commented [CD4]:** Per Model Ordinance, staff recommend inclusion to provide clarity for certifying engineers and staff review.

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## Floodplain Overlay District

base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

**Flood Zone:** A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

**Floor:** (See Lowest Floor)

**Freeboard:** The height added to the Community Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Community Base Flood Elevation (BFE) plus the freeboard establishes the "Flood Protection Elevation."

**Functionally Dependent Facility:** A facility that cannot be used for its intended purpose, unless it is located or carried out in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

**General Floodplain Development Permit:** A permit issued for certain types of Development in the Floodplain per Section 18.4 of this ordinance.

**Habitable Building:** A structure designed primarily for, or used for human habitation. This includes, but is not limited to, houses, condominiums, townhomes, restaurants, retail establishments, manufacturing buildings, commercial buildings, office buildings, manufactured homes, and similar uses. It does not include Accessory Structures. (See definition above).

**Hazardous Waste Management Facility:** A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.

**Highest Adjacent Grade:** The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

**Highest Adjacent Grade:** The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

**Historic Structure** Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or

**Commented [CD6]:** Per the Model Ordinance, define "Floodway Engineering Analysis" to be consistent throughout the ordinance to replace "flood study", "no rise/no impact study", "hydraulic models", and "hydrologic and hydraulic analysis"

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## Floodplain Overlay District

4. Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program." Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

**Individual Floodplain Development Permit:** means a permit for Development in the Floodplain that involves activities not listed in Section 18.4.2 and may not qualify for a General Floodplain Development Permit.

**Letter of Map Revision (LOMR):** An official revision to the currently effective FEMA FIRM based on as-built conditions. It is issued by FEMA and may change FEMA Base Flood Elevations, the location of the FEMA Floodway Lines and/or the location of the FEMA Flood Fringe line.

**Letter of Map Amendment (LOMA):** A letter from FEMA that officially removes a property or building from the FEMA Special Flood Hazard Area (SFHA) that was inadvertently shown in the SFHA on the FIRM.

**Letter of Map Revision Based on Fill (LOMR-F):** A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

**Levee:** A man-made structure, usually an earthen embankment, Floodwall or a combination of both that is designed and constructed to contain, control or divert the flow of water so as to provide protection from temporary flooding.

**Levee System:** A flood protection system which consists of Levee(s) and/or Floodwall(s) and associated structures, such as closure and drainage devices.

**Light Duty Truck:** Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle.
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
3. Available with special features enabling off-street or off-highway operation and use.

**Lowest Adjacent Grade (LAG):** The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including the basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's Lowest Floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

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## Floodplain Overlay District

**Manufactured Home:** A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

**Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

**Market Value:** The value of a building, excluding land value, that is determined by an appraiser certified in North Carolina. The tax value of the building may be used for screening purposes.

**New Construction:** Construction of a replacement structure commenced after total demolition, or renovation/rehabilitation of an existing structure that results in the partial or complete removal of two external walls and has a total cost equal to or exceeding 50 percent of the market value of the structure before the "start of construction" of the improvement. For flood insurance purposes, New Construction also means structures for which the start of construction commenced on or after June 1, 1981 and includes subsequent improvements to such structures (see definition of Flood Insurance Rate Map.

**New Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after January 10, 1995, the initial effective date of the floodplain management regulations adopted by the community.

**Nonconforming Building or Use:** Any legally existing building or use which fails to comply with the provisions of this ordinance.

**Non-solid Fence:** A fence with at least 75 percent open area.

**No-Rise Certification:** A certification statement signed by a duly-qualified engineer licensed to practice in the state of North Carolina certifying that a proposed Project will not impact the FEMA Base Flood Elevations or the Community Base Flood Elevations at modeled cross sections in the vicinity of the proposed Project.

**North American Vertical Datum:** as corrected in 1988 (NAVD or NAVD 1988) is a vertical control used as a reference for establishing varying elevations within the floodplain. If a datum other than NAVD 88 is used then use the datum listed as the reference datum on the applicable FIRM panel for use on Elevation Certificate completion. See Flood Insurance Administration (FIA)- 20 part 1, 8.

**Open House Forum:** A public meeting held by the owner of the proposed Levee and the Director of Mecklenburg County Storm Water Services, or his designee. The purpose of the Open House Forum is to provide an opportunity for discussion between the owner that has submitted an application for the construction of a Levee, nearby property owners, and other interested parties.

**Post-FIRM:** Construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.

**Deleted: Mean Sea Level:** The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with the "North American Vertical Datum of 1988 (NAVD 88)."

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## Floodplain Overlay District

**Pre-FIRM:** Construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map.

**Preliminary Flood Insurance Rate Map (PFIRM):** a map(s) released by the Federal Emergency Management Agency for public comment prior to the effective date. The map may be in both digital and printed format and shows the Community and FEMA Special Flood Hazard Areas, Community Encroachment Areas and FEMA Floodways, FEMA and Community Base Flood Elevations, flood insurance risk premium zones and other data. The data and maps are subject to change prior to the effective date.

**Preliminary Flood Insurance Study (PFIS):** a narrative report released by the Federal Emergency Management Agency for public comment prior to the effective date. Information contained in the PFIS includes a description of past flooding and studies, the study area, engineering methods, Community and FEMA Base Flood Elevations, other community and FEMA flood data. The Flood Insurance Rate Maps are also included as part of the Flood Insurance Study. The data and maps are subject to change prior to the effective date.

**Principally Above Ground:** At least 51 percent of the actual cash value of the structure is above ground.

**Public Safety and/or Nuisance:** Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**Recreational Vehicle:** A vehicle which is: built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a car or light duty truck; and designed primarily not for use as a permanent dwelling, but as temporarily living quarters for recreational, camping, travel or seasonal use, and (5) is fully licensed and ready for highway use.

**Reference Level:** The portion of a structure or other Development that must be compared to the flood protection elevation to determine regulatory compliance of such building. Within Special Flood Hazard Areas designated as zones A1-A30, AE, A, A99, AO, or AH, the reference level is the top of the lowest floor.

**Remedy a Violation:** To bring the structure or other Development into compliance with this ordinance or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected Development from flood damages, implementing the enforcement provisions of this ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other Development.

**Repetitive Loss:** Flood-related damages sustained by a structure during any 10-year period for which the total cost of repairs equals or exceeds fifty percent (50%) of the Market Value of the structure before the damage occurred. Repetitive Loss damages include flood-related damages sustained prior to November 16, 2018 for which the cost of repairs equaled or exceeded twenty-five percent (25%) of the Market Value of the structure before the damage occurred if within the relevant 10-year period.

**Commented [BJ12]:** Definitions added to support new ordinance language related to “preliminary” maps.

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## Floodplain Overlay District

**Riverine:** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Salvage Yard:** Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

**Solid Waste Disposal Facility:** Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

**Solid Waste Disposal Site:** As defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

**Special Flood Hazard Area:** The FEMA Special Flood Hazard Area. See definition above.

**Start of Construction:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as pouring a slab or footing, installation of piles, construction of columns, or any work beyond the state of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not parts of the main structure. For Substantial Improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**Structure:** For floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, that are principally above ground.

**Substantial Damage:** Damage of any origin sustained by a structure over a 10-year period whereby the cost of restoring the structure to the condition before damage occurred would equal or exceed fifty percent (50%) of the market value of the structure before the damages occurred. Substantial Damage includes flood-related damages sustained by a structure prior to November 16, 2018 for which the cost of repairs at the time of the flood event equaled or exceeded twenty-five percent (25%) of the Market Value of the structure before the damage occurred if within the relevant 10-year period. See definition of "Substantial Improvement."

**Substantial Improvement:** Any repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, or combination thereof, where the total cost over a 10-year period equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. Substantial Improvement includes any repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, or combination thereof prior to November 16, 2018 for which the cost of repairs at the time of the flood event equaled or exceeded twenty-five percent (25%) of the Market Value of the structure before the damage occurred or the Substantial

**Commented [CD15]:** Per model ordinance, a time-period must be specified (minimum of 1 year). Staff recommend a 10-year period to document current practice, maintain a time-period consistent with two 25% criteria, and be eligible for an additional 80 CRS points.

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**Commented [CD16]:** Cumulating substantial damages over a 10-yr period for the 50% criteria makes the two 25% criteria obsolete. Staff believe removal of this criteria will not affect availability of Increased Cost of Compliance (ICC) insurance coverage for homeowners and will not reduce Community Rating System (CRS) points because the 50% criteria over a 10-year period meets the "Repetitive Loss" definition for ICC qualification.

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**Deleted:** Substantial Damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

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## Floodplain Overlay District

Improvement began if within the relevant 10-year period. The term does not, however, include either:

1. Any correction of existing violations of State or Community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure

3. Any replacement subject to the requirements of Section 18.6.1 A(5)(c) of this ordinance.

**Substantial Improvement:** For the purposes of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

**Technically Measurable:** An activity and/or condition that can be modeled within the stated or commonly known accuracy of a Floodway Engineering Analysis or other engineering computations, and may have an impact on Base Flood Elevations. The Floodplain Administrator may require a No-Rise Certification by a licensed engineer to determine if a proposed activity and/or condition meets the Technically Measurable definition.

**Temperature Controlled:** Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

**Variance:** A grant of relief to a person from the requirements of this ordinance.

**Violation:** The failure of a structure or other Development to be fully compliant with this ordinance. A structure or other Development without the elevation certificate, other certifications or other evidence of compliance required in Articles III and V is presumed to be in violation, until such time as the documentation is provided.

**Water Surface Elevation (WSE):** The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

**Watercourse:** A lake, river, creek, stream, channel or other topographic feature within a Special Flood Hazard Area on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**Commented [CD18]:** Cumulating substantial damages over a 10-yr period for the 50% criteria makes the two 25% criteria obsolete. Staff believe removal of this criteria will not affect availability of Increased Cost of Compliance (ICC) insurance coverage for homeowners and will not reduce Community Rating System (CRS) points because the 50% criteria over a 10-year period meets the "Repetitive Loss" definition for ICC qualification.

**Commented [CD19]:** To encourage owners to locate replacement equipment at compliant elevations, staff recommend offering this option to owners which will remove floodplain risk for new equipment and benefit the owner.

**Deleted:** Also means any repair, reconstruction, or improvement to a structure on two separate occasions during a 10-year period for which the total cost of repairs, reconstruction or improvement at the time of each alteration, equals or exceeds 25 percent of the market value of the structure before the damage occurred or the Substantial Improvement began. The Floodplain Administrator may determine if separate actions constitute a single project (Section 154.2918.6.1.A(13)). ).

**Commented [CD21]:** Rename model to "Floodway Engineering Analysis" to be consistent throughout the ordinance.

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**Commented [CD22]:** Clarify that some activities may require an engineer to certify a no rise condition.

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**Commented [CD23]:** Per model ordinance, include definition that does not exist in current ordinance.

## 18.3 GENERAL PROVISIONS

### 18.3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all lands in the land use jurisdiction including the Extra-Territorial Jurisdiction (ETJ) of the Town of Davidson within the area shown on the Flood Insurance Rate Maps (FIRM) or any FEMA and/or locally approved revisions to data shown on the FIRMs, as being located within the Community Special Flood Hazard Areas or land adjacent to the Community Special Flood Hazard Areas if it is affected by the work that is taking place.

**Commented [CD24]:** Per Model Ordinance, clarify that the ordinance applies within the Town limits and ETJ area.

### 18.3.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The Special Flood Hazard Areas include those identified by the Mecklenburg County Flood Insurance Rate Maps, dated November 16, 2018, which with accompanying data are adopted by reference and declared to be part of this ordinance.

**Commented [CD25]:** FEMA-required change to incorporate the new FIRMs.

**Deleted:** September 2, 2015

In areas where a Preliminary FIRM and Preliminary FIS exist, Community Base Flood Elevations shown on the Preliminary FIRM and Preliminary FIS shall be used for local regulatory purposes, if they are higher than those shown on the effective FIRM and FIS.

**Commented [BJ26]:** Language added per Floodplain Staff's recommendation.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Mecklenburg County Unincorporated Area, dated June 1, 1981.

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### 18.3.3 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any Development activities. The Floodplain Ordinance Guidance Document may be used for illustrative purposes to assist in determining the applicable type of Floodplain Development Permit required

### 18.3.4 COMPLIANCE

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

### 18.3.5 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of laws or ordinances or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued, in conformity with law, relating to the use of buildings or premises; nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that, where this ordinance imposes a greater restriction upon the use of buildings or premises or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of laws or ordinances, or by such rules, regulations or permits or by such easements, covenants or agreements, the provisions of this ordinance shall control.

### 18.3.6 INTERPRETATION

In the interpretation and applications of this ordinance, all provisions shall be:

**A.** Considered as minimum requirements;

## Floodplain Overlay District

- B. Liberally construed to meet the purposes and objectives of this regulation as stated in Sections 18.1.4 and 18.1.5; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

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### 18.3.7 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Davidson, Mecklenburg County, or on any agent, officer or employee thereof for any flood damages that result from reliance on this ordinance or by any administrative decision lawfully made hereunder.

### 18.3.8 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of Floodplain Development Permits, Variances or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Davidson or the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to seeking injunctive relief, orders of abatement, or other similar equitable relief.

## 18.4 ADMINISTRATION AND ENFORCEMENT

### 18.4.1 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Town designates the Planning Director or his or her designee as the Floodplain Administrator and the County Floodplain Administrator or his or her designated agent as the persons with the authority to administer, implement and enforce the provisions of this ordinance through a properly executed, legally binding interlocal agreement.

### 18.4.2 FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS

- A. A Floodplain Development Permit is required for any Development within the Community Special Flood Hazard Area (CSFHA) and is subject to the conditions below. The Floodplain Administrator is authorized to create, and amend from time to time as necessary, a Technical Guidance Document to help explain the application of the provisions of this ordinance, specifically the Floodplain Development Permit provisions, through the use of charts and related written materials. The Technical Guidance Document shall not be a part of this ordinance, and shall be solely for illustrative and educational purposes. If there is any discrepancy between the Technical Guidance Document and this ordinance, the provisions of this ordinance shall control.
- B. Floodplain Development Permits fall into one of two types: General Floodplain Development Permits (GFDP) and Individual Floodplain Development Permits (IFDP). If the proposed development activities meet the requirements of the General Floodplain Development Permit, an Individual Floodplain Development Permit is not required.

#### 18.4.2.1 GENERAL FLOODPLAIN DEVELOPMENT PERMIT

The intent of the General Floodplain Development Permit (GFDP) is to allow uses or activities in the Community Special Flood Hazard Area (including the FEMA Floodway and Community Encroachment Area) which inherently will not increase FEMA and/or Community Base Flood Elevations. The following uses and activities are permitted under a GFDP, without the need for an Individual Floodplain Development Permit, Floodway Engineering Analysis or variance, as long as they result in no Technically Measurable increases in FEMA and/or Community Base Flood Elevations. A No-Rise Certification may be required by the Floodplain Administrator to demonstrate no technically-measurable increases.

- A. General farming, pasture, horticulture, forestry, wildlife sanctuaries, gardens, lawns, landscaping and other similar activities;
- B. Utility infrastructure (poles, sewer manholes, vent pipes, underground utilities, etc.), sign poles, non-solid fences, and other similar activities.
- C. On-grade driveways, trails, sidewalks, boardwalks, roads and road maintenance; storm drainage system construction, repairs and maintenance (Major & Minor system), and other similar activities. The Floodplain Administrator must be notified in writing, including a project description and sketch plan, prior to commencement of these activities.

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**Commented [CD27]:** Rename the "flood study" to "Floodway Engineering Analysis" to be consistent throughout the ordinance.

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**Commented [CD28]:** Add statement to allow for engineering certification of no technically measurable increases without requiring an Floodway Engineering Analysis.

## Floodplain Overlay District

- D. Interior renovations with a value of less than \$10,000, to a structure with its Reference Level not meeting the requirements of Sections 18.6.2.1 and 18.6.2.2.
- E. Interior renovations of any value, to a structure with its Reference Level meeting the requirements of Sections 18.6.2.1 and 18.6.2.2.

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**Deleted:** 154.30 A. (1),(2)

### 18.4.2.2 INDIVIDUAL FLOODPLAIN DEVELOPMENT PERMITS

Individual Floodplain Development Permits are required for all other projects that do not meet the requirements of a General Floodplain Development Permit. Application for an Individual Floodplain Development Permit (IFDP) shall be made to the Floodplain Administrator on forms furnished by him or her prior to any Development activities proposed to be located within the Community Special Flood Hazard Area. Requirements for submittal are available from the Floodplain Administrator.

### 18.4.2.3 CERTIFICATION REQUIREMENTS

- A. A Final As-Built Elevation Certificate (FEMA Form 086-0-33) (for either residential or non-residential buildings) or Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan is required after construction is completed and prior to the issuance of a Certificate of Occupancy or a Temporary Certificate of Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation or floodproofed elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification operational plan, and inspection and maintenance plan shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data operational plan, and inspection and maintenance plan submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make said corrections required shall be cause to withhold the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.
- B. For proposed Development to be located outside of the Community Encroachment Area and the FEMA Floodway, a certification from a registered land surveyor or professional engineer that states that no fill material or other development was placed within the FEMA Floodway or Community Encroachment Area of any watercourse, will be required prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.
- C. For proposed Development within the Community Encroachment Area or the FEMA Floodway, an as-built topographic map prepared by a registered land surveyor or professional engineer will be required prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy. This is in addition to a Floodway Engineering Analysis or CLOMR that may be required as specified in Section 18.6.2.6.

**Commented [CD29]:** Per Model Ordinance add this part of the language to emphasize the need for a plan including inspections and maintenance.

**Commented [CD30]:** Per Model Ordinance add this part of the language to emphasize the need for a plan including inspections and maintenance.

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**Commented [CD31]:** Per Model Ordinance add this part of the language to emphasize the need for a plan including inspections and maintenance.

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**Commented [CD32]:** Rename to "Floodway Engineering Analysis" to be consistent throughout the ordinance.

**Deleted:** no-rise/no-impact study

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## Floodplain Overlay District

- D. If a manufactured home is placed within the Floodplain and the elevation of the chassis is 36 inches or higher above adjacent grade, an engineered foundation certification is required.
- E. Certification Exemptions. The following structures, if located within the Floodplain, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) above:
  - 1. Recreational Vehicles meeting requirements of Section 18.6.2.9;
  - 2. Temporary Structures meeting requirements of Section 18.6.2.10; and
  - 3. Accessory Structures less than 150 square feet meeting requirements of Section 18.6.2.11.

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### 18.4.2.4 PERMIT APPLICATION REQUIREMENTS

- A. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
  - 1. The nature, location, dimensions, and elevations of the area of development/ disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
  - 2. The location of the Community Flood Fringe Line, Community Encroachment Line, FEMA Flood Fringe Line and FEMA Floodway Line as shown on the FIRM or other flood map, or a statement that the entire lot is within the Special Flood Hazard Area;
  - 3. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map;
  - 4. The FEMA Base Flood Elevation (BFE) and Community Base Flood Elevation (CBFE);
  - 5. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
  - 6. The certification of the plot plan by a registered land surveyor or professional engineer.
- B. Proposed elevation, and method thereof, of all development within a Community Special Flood Hazard Area including but not limited to:
  - 1. Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
  - 2. Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE, will be floodproofed; and
  - 3. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- C. If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, inspection and maintenance of floodproofing measures.

**Commented [CD33]:** Per Model Ordinance, staff recommend removing msl as all regulatory vertical elevations are based upon NAVD 1988.

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**Commented [CD34]:** Per Model Ordinance, staff recommend removing msl as all regulatory vertical elevations are based upon NAVD 1988.

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**Commented [CD35]:** Per Model Ordinance, staff recommend removing msl as all regulatory vertical elevations are based upon NAVD 1988.

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## Floodplain Overlay District

- D. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
1. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
  2. Openings to facilitate automatic equalization of hydrostatic flood forces on walls when solid foundation perimeter walls are used in Community Special Flood Hazard Area;
  3. Usage details of any enclosed areas below the lowest floor;
  4. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
  5. Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received;
  6. Documentation for proper placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of 18.6.2.9 and 18.6.2.10 are met; and
  7. A description of proposed alteration of a watercourse, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed alteration of a watercourse.
- E. If placing fill within the Special Flood Hazard Area, a demonstration of compliance with Section 9 and 10 of the Federal Endangered Species Act (ESA) is required. The demonstration of compliance must be provided to the Floodplain Administrator.

### 18.4.2.5 PERMIT REQUIREMENTS

The Floodplain Development Permit shall include, but not be limited to:

- A. A description of the development to be permitted under the floodplain development permit.
- B. The Special Flood Hazard Area determination for the proposed development.
- C. The Flood Protection Elevation required for the reference level and all attendant utilities.
- D. The Flood Protection Elevation required for the protection of all public utilities.
- E. All certification submittal requirements with timelines.
- F. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 18.6.2.6 are met.

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**Commented [CD36]:** Revised language to reflect model Ordinance definition.

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**Commented [CD37]:** Revised language to reflect model Ordinance definition.

**Deleted:** watercourse

**Deleted:** or relocation

**Commented [CD38]:** As of October 1, 2010, FEMA (under 44 CFR 60.3(a)(2)) requires the community to document compliance with the Endangered Species Act and ensure Incidental Take permits are obtained, if needed, prior to issuing a floodplain permit. The form of the demonstration will be specified in the Technical Guidance document and can include proof of a 404 Army Corps permit, an ESA evaluation provided by a qualified professional or other method approved by the Floodplain Administrator

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**Commented [CD39]:** Per Model Ordinance, specify what "as applicable" means, which refers to the Section that requires the submittal and approval of a no-rise study for these encroachments

## Floodplain Overlay District

**G.** The flood openings requirements per Section 18.6.2.4.

**H.** A statement that all construction materials below the FPE shall be constructed entirely of flood-resistant materials.

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**Commented [CD40]:** This is an ordinance requirement for elevated buildings; staff propose to extend this to all building structures.

### 18.4.3 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator is authorized to and shall perform, but not be limited to, the following duties:

- A.** Reviewing, approving, and issuing all Floodplain Development Permits in a timely manner to assure that the permit requirements of this ordinance have been satisfied.
- B.** Reviewing, approving and issuing all documents applicable to Letters of Map Change.
- C.** Advising the permittee that additional federal or state permits may be required; and if specific federal or state permits are known, requiring that copies of such permits be provided and maintained on file with the Floodplain Development Permit.
- D.** Notifying adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency.
- E.** Assuring that within available resources, maintenance is provided within the altered or relocated portion of any altered Watercourse so that the flood-carrying capacity is maintained.
- F.** Not issuing a Floodplain Development Permit for Encroachments within the Community Encroachment Area and/or the FEMA Floodway unless the certification and flood hazard reduction provisions of Article V are met.
- G.** Reviewing and recording the actual elevation (in relation to NAVD 1988) of the Reference Level (including basement) of all new or substantially improved structures, in accordance with Section 18.4.2.3.
- H.** Reviewing and recording the actual elevation (in relation to NAVD 1988) to which the new or substantially improved non-residential structures have been floodproofed, in accordance with Section 18.4.2.3.
- I.** Obtaining certifications from a registered professional engineer or architect in accordance with Section 18.6.2.2 when floodproofing is utilized for a particular non-residential structure.
- J.** Making the interpretation of the exact location of boundaries within the FEMA Special Flood Hazard Area or the Community Special Flood Hazard Area when, for example, there appears to be conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance. Procedures for changing flood hazard area boundaries and lines depicted on the Flood Insurance Rate Maps are identified in the National Flood Insurance Program regulations (44 CFR Parts 59-78).

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**Commented [CD42]:** Per Model Ordinance, staff recommend removing msl as all regulatory vertical elevations are based upon NAVD 1988.

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**Commented [CD43]:** Per Model Ordinance, staff recommend removing msl as all regulatory vertical elevations are based upon NAVD 1988.

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## Floodplain Overlay District

- K.** Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended
- L.** Making on-site inspections of projects.
- M.** Serving notices of violation, issuing stop work orders, revoking permits and taking corrective actions.
- N.** Maintaining a copy of the Letter of Map Amendment issued from FEMA in the Floodplain Development Permit file when a property owner has received a Letter of Map Amendment (LOMA). (A LOMA is typically applied for and approved when the exact location of boundaries of the FEMA Special Flood Hazard Area conflicts with the current, natural topography information at the site.)
- O.** Determining the required information to be submitted with an application for approval of an Individual Floodplain Development Permit.
- P.** Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of the total cost of repairs as it relates to a Substantial Improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.
- Q.** Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of whether the proposed construction activities constitute New Construction for purposes of this ordinance.
- R.** Reviewing and acknowledging FEMA Conditional Letters of Map Revision and FEMA Letters of Map Revision.
- S.** Reviewing and approving Community Conditional Letters of Map Revision and Community Letters of Map Revision.
- T.** Making on-site inspections of work in progress. As the work pursuant to a Floodplain Development Permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit.
- U.** Issuing stop-work orders. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.
- V.** Revoking Floodplain Development Permits. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal

## Floodplain Overlay District

or failure to comply with the requirements of state or local laws; or for false statements or misrepresentation made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked. Revoked permits may be resubmitted for approval using the requirements of the ordinance in effect at the time of the original submittal unless they were revoked because of the intentional submission of incorrect information by the permittee or his agent, or under other circumstances where allowing resubmittal using the requirement of the ordinance in effect at the time of the original submittal would not be equitable or consistent with public policy. However, base flood elevations that govern the elevation to which the structure is built must comply with the regulations and flood elevations in effect at the time of application for the building permit.

- W.** Making periodic inspections. The Floodplain Administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- X.** Providing owners of structures in the Floodplain with information concerning their flood risk, and (for structures with the Reference Level below the Flood Protection Elevation) inform potential buyers of Substantial Improvement restrictions through the recordation of a notice in the property chain of title or other similar notice.
- Y.** Obtain actual elevation (in relation to [NAVD 1988](#)) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section [18.4.2.3](#).
- Z.** Obtain actual elevation (in relation to [NAVD 1988](#)) of all public utilities in accordance with the provisions of Section [18.4.2.3](#).
- AA.** [Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 18.3.2 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify Sate and FEMA of mapping needs.](#)

**Commented [CD44]:** Per Model Ordinance, staff recommend removing msl as all regulatory vertical elevations are based upon NAVD 1988.

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**Commented [CD46]:** Per Model Ordinance, include this responsibility.

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## Floodplain Overlay District

### 18.4.4 CORRECTIVE PROCEDURES

- A. Violations to be corrected. When the Floodplain Administrator finds violations of applicable state and local laws and notifies the property owner or building occupant of the violation, the owner or occupant shall immediately remedy each violation of law cited in the notice.
- B. Actions in event of failure to take corrective action. If the owner or occupant of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give written notice, by certified or registered mail to the last known address or by personal service that:
  1. The building or property is in violation of the Floodplain Regulations;
  2. A hearing will be held before the Floodplain Administrator at a designated place and time, not later than twenty (20) calendar days after the date of the notice; at which time the owner or occupant shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
  3. Following the hearing, the Floodplain Administrator may issue such order to alter, vacate or demolish the building, or to remove fill or other unauthorized Encroachment, as appears appropriate.
  4. Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or Development is in violation of the Floodplain Regulations, he shall issue an order in writing to the owner or occupant, requiring the owner or occupant to remedy the violation within such period, not less than sixty (60) calendar days, as the Floodplain Administrator may prescribe; provided that, where the Floodplain Administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.
  5. Appeal. Any owner or occupant who has received an order to take corrective action may appeal the order to the Davidson Zoning Board of Adjustment (hereinafter referred to as the "Board of Adjustment" or "Board") as provided in Article VI, Section 18.5.2. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order.
  6. Failure to comply with order. If the owner or occupant of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Board of Adjustment following an appeal, he/she shall be guilty of a misdemeanor and shall be punished in the discretion of the court. In addition, the owner or occupant shall be subject to civil enforcement as described in Article II, Section 18.3.8.

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## 18.5 APPEALS AND VARIANCES

### 18.5.1 AUTHORITY OF BOARD OF ADJUSTMENT

- A. The Board of Adjustment of Davidson shall hear and decide appeals from any order, decision, determination or interpretation made by the Floodplain Administrator pursuant to or regarding these regulations.
- B. The Board of Adjustment shall hear and decide petitions for Variances from the requirements of this ordinance.

### 18.5.2 INITIATION AND FILING OF APPEAL

- A. An appeal of an order, decision, determination or interpretation made by the Floodplain Administrator may be initiated by any person aggrieved by any officer, department, board or bureau of the Town.
- B. A notice of appeal in the form prescribed by the Board of Adjustment must be filed with the Board's Clerk, with a copy to the Floodplain Administrator, within twenty (20) days of the order, decision, determination or interpretation and must be accompanied by a nonrefundable filing fee as established by the Town council. Failure to timely file such notice and fee will constitute a waiver of any rights to appeal under this section and the Board of Adjustment shall have no jurisdiction to hear the appeal.

### 18.5.3 STANDARDS AND HEARING PROCEDURE

- A. The Board of Adjustment will conduct the hearing on an appeal of an order, decision, determination or interpretation of these regulations in accordance with its normal hearing procedures as set out in the Town of Davidson Planning Ordinance.
- B. At the conclusion of the hearing, the Board of Adjustment may reverse or modify the order, decision, determination or interpretation under appeal upon finding an error in the application of these regulations on the part of the Floodplain Administrator who rendered the decision, determination or interpretation. In modifying the decision, determination or interpretation, the Board will have all the powers of the officer from whom the appeal is taken.

### 18.5.4 INITIATION AND FILING OF VARIANCE PETITION

- A. A petition for Variance may be initiated only by the owner of the affected property, or an agent authorized in writing to act on the owner's behalf.
- B. A petition for a Variance from these regulations in the form prescribed by the Board of Adjustment must be filed with the Board's Clerk, with a copy to the Floodplain Administrator, and be accompanied by a nonrefundable filing fee as established by the Board of Commissioners.

## Floodplain Overlay District

### 18.5.5 FACTORS FOR CONSIDERATION AND DETERMINATION OF COMPLETENESS

- A.** In passing upon Variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and the:
- 1.** Danger that materials allowed to be placed in the floodway as a result of the Variance may be swept onto other lands to the injury of others during a Community Base Flood;
  - 2.** Danger to life and property due to flooding or erosion damage from a Community Base Flood;
  - 3.** Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage during the Community Base Flood;
  - 4.** Importance of the services provided by the proposed facility to the community;
  - 5.** Necessity to the facility of a waterfront location, where applicable;
  - 6.** Availability of alternative locations, not subject to flooding or erosion damage during a Community Base Flood, for the proposed use;
  - 7.** Compatibility of the proposed use with existing and anticipated Development;
  - 8.** Relationship of the proposed use to the Mecklenburg County Floodplain Management Guidance Document, Mecklenburg County Flood Hazard Mitigation Plans, the Mecklenburg County Greenway Plan, and any other adopted land use plans for that area;
  - 9.** Safety of access to the property in times of a Community Base Flood for ordinary and emergency vehicles;
  - 10.** Expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters during a Community Base Flood expected at the site; and
  - 11.** Costs of providing governmental services during and after flood events, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.
- B.** A written report addressing each of the above factors shall be submitted with the application for a Variance.
- C.** Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of Variances as it deems necessary to further the purposes of this ordinance.
- D.** Variances may be issued for the repair or rehabilitation of Historic Structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the Variance is the minimum necessary to preserve the historic character and design of the structure.
- E.** Functionally dependent facilities if determined to meet the definition as stated in Section 18.2 of this ordinance, provided provisions of Article 5 have been satisfied, and such

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## Floodplain Overlay District

facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

- F. Any other type of development, provided it meets the requirements of this section.

### 18.5.6 CONDITIONS FOR VARIANCES

- A. Variances shall not be issued when the Variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- B. Variances shall not be issued within any designated Floodway if the Variance would result in any increase in flood levels during the Community and/or FEMA Base Flood discharge unless the requirements of 18.6.2.6 are met.
- C. Variances shall only be issued upon a determination that the Variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Variances shall only be issued prior to approval of a Floodplain Development Permit.

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### 18.5.7 STANDARDS FOR GRANTING VARIANCE

- A. Variances shall only be issued upon:
  - 1. A showing of good and sufficient cause;
  - 2. A determination that failure to grant the Variance would result in exceptional hardship; and
  - 3. A determination that the granting of a Variance will not result in increased flood heights (unless the requirements of Section 18.6.2.6 are met), additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances.
- B. The fact that the property could be utilized more profitably or conveniently with the Variance than without the Variance shall not be considered as grounds for granting the Variance.

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### 18.5.8 MISCELLANEOUS CONDITIONS

- A. In addition to consideration of the items in 18.5.5, if Dryland Access cannot be obtained, a Variance to the requirement for Dryland Access may be granted by the Board of Adjustment upon consideration of the following conditions:
  - 1. A determination that all possible alternatives have been investigated in an attempt to provide the safest access from a proposed Habitable Building to a dry public street.
  - 2. The existence of a site plan prepared by a Licensed Land Surveyor or Professional Engineers indicating that the proposed access to Habitable Buildings on the property poses the least risk from flooding.

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## Floodplain Overlay District

- B. In addition to consideration of the items in 18.5.5, a Variance may be issued by the Board of Adjustment for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following criteria are met:
1. The use serves a critical need in the community.
  2. No feasible location exists for the use outside the Special Flood Hazard Areas.
  3. The Reference Level of any structure is elevated above the Community Flood Protection Elevation or is designed and sealed by a Professional Engineer or a Registered Architect to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
  4. There will be no storage of materials or tanks which could flood within the Special Flood Hazard Area unless they are contained in a structure as defined in 3. above.
  5. The use complies with all other applicable laws and regulations.
  6. The Town of Davidson has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the Variance.

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### 18.5.9 NOTIFICATION AND RECORDKEEPING

- A. Any applicant to whom a Variance from the FEMA Base Flood Elevation is granted shall be given written notice specifying the difference between the FEMA Base Flood Elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced Reference Level elevation. Such notification shall be maintained with a record of all Variance actions.
- B. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances regarding FEMA minimum standards to the Federal Emergency Management Agency and the State of North Carolina upon request.

### 18.5.10 APPEAL FROM BOARD OF ADJUSTMENT

- A. Any person aggrieved by the final decision of the Board of Adjustment to grant or deny a Floodplain Development Permit shall have 30 days to file an appeal to Mecklenburg County Superior Court, as provided in N.C.G.S. 143-215.57 (c).
- B. Any party aggrieved by the decision of the Board of Adjustment related to any other order, decision, determination or interpretation of these regulations, including the granting or denial of a Variance, shall have 30 days from the receipt of the Board's decision to file a petition for review in the nature of certiorari in Mecklenburg County Superior Court.

## 18.6 PROVISIONS FOR FLOOD HAZARD REDUCTION

### 18.6.1 GENERAL STANDARDS

- A. In all Special Flood Hazard Areas, the following provisions are required:
1. All New Construction and Substantial Improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
  2. Manufactured Homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, the use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
  3. All New Construction and Substantial Improvements shall be constructed with materials and utility equipment resistant to flood damage;
  4. All New Construction or Substantial Improvements shall be constructed by methods and practices that minimize flood damage;
  5. All new electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed, constructed, installed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Flood Protection Elevation. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator, etc.), hot water heaters, electric wiring, and outlets/switches;
    - a. Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
    - b. Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
    - c. The cost for replacements that are for maintenance, are not part of a substantial improvement, and that are installed at the original location are not included as substantial improvement costs if the replacements are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Flood Protection Elevation.
  6. All new and replacement water supply systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system;
  7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system and discharges from the systems into floodwaters;

**Commented [CD48]:** Per model ordinance, specify "all new"

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**Commented [CD49]:** Per Model Ordinance, add ductwork to the list as the NC Mechanical Code requires ductwork to be located above flood elevations

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**Commented [CD50]:** Per Model Ordinance, add language to enable replacement of equipment without requiring equipment to be elevated unless part of a substantial improvement. Staff have historically been implementing this as a policy.

**Commented [CD51]:** To encourage owners to locate replacement equipment at compliant elevations, staff recommend offering this option to owners which will remove floodplain risk for new equipment and benefit the owner.

## Floodplain Overlay District

8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this ordinance, shall meet the requirements of "New Construction" as contained in this ordinance;
10. Construction of new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted except by variance, in Special Flood Hazard Area. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated above the Community Base Flood Elevation or designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy;
11. Any new critical facility must be located outside of the 500-year (0.2%) flood fringe area and elevated at least one foot above the 500-year (0.2%) flood elevation or the Community Base Flood Elevation whichever is greater. The determination of this flood fringe area and elevation will be provided by the Floodplain Administrator;
12. Subdivisions. All Development proposals submitted for review and approval in accordance with the Town of Davidson Planning Ordinance shall also comply with the following provisions:
  - a. Locate and construct public utilities and facilities, such as sewer, gas, electrical and water systems, to minimize flood damage;
  - b. Construct all new streets located in a Community Special Flood Hazard Area in accordance with the applicable provisions of the Subdivision Ordinance;
  - c. Design and construct adequate drainage to reduce exposure to flood hazards; and
  - d. Take such other appropriate measures needed to minimize flood damage.
13. For the purpose of determining Substantial Improvement, the Floodplain Administrator shall make a determination of the total cost of repairs as it relates to a Substantial Improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.
14. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.
15. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

## Floodplain Overlay District

### 18.6.2 SPECIFIC STANDARDS

- A. Unless a variance is granted by the Town of Davidson ZBA, no new construction, substantial improvements or other development requiring an Individual Floodplain Development Permit per Section 18.4.2.2, is allowed within the Community and FEMA Special Flood Hazard Area, except where necessary for public infrastructure including but not limited to streets, utilities, greenways and sidewalks. These uses must be approved by the Floodplain Administrator. Review and implementation of SWIM buffer regulations shall be concurrent and coordinated with the provisions of this chapter, so that both are satisfied.
- B. 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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In all Community and FEMA Special Flood Hazard Areas where development is allowed by variance the following provisions will apply:

#### 18.6.2.1 RESIDENTIAL CONSTRUCTION

- A. New Construction or Substantial Improvement of any residential structure shall have the Reference Level, elevated at least one foot above the Community Base Flood Elevation.
- B. Non-substantial Improvements Notice Renovations, rehabilitations, repair, reconstruction, or improvement costing between 10% and 50% of the Market Value of the existing building and said building having the Reference Level below the Flood Protection Elevation, will require the property owner to record a Notice of Floodplain Improvements (provided in the Technical Guidance Document) with the Mecklenburg County Register of Deeds Office prior to the issuance of a Building Permit.

**Commented [CD52]:** Because staff proposes a 10-year cumulation period for the 50% substantial improvement and to eliminate the two 25% substantial improvement conditions from the ordinance, staff proposes to reduce the notice amount from 25% to 10% of Market Value to provide current and future property owners more accurate cost limitations of improving the structure before having to bring the structure into compliance.

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#### 18.6.2.2 NONRESIDENTIAL CONSTRUCTION

New Construction or Substantial Improvement of any commercial, industrial or nonresidential structure shall meet the requirements for residential construction in Section 18.6.2.1 above, or the structure may be floodproofed in lieu of elevation, provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 18.4.2.3,

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#### 18.6.2.3 NEW BUILDINGS REMOVED FROM THE FEMA SPECIAL FLOOD HAZARD AREA BY FILL

## Floodplain Overlay District

When new buildings have been constructed on land that has been removed from the FEMA Special Flood Hazard Area by the placement of fill, they must have the Reference Level (including basement) elevated at least one foot (two feet on the Catawba River) above the Community Base Flood Elevation.

### 18.6.2.4 ELEVATED BUILDINGS

New Construction or Substantial Improvement of elevated buildings, that include fully enclosed areas formed by foundation and other exterior walls below the Community Base Flood Elevation shall meet the requirements of Section 18.6.2.1, and shall be designed to preclude finished living space and shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. The walls shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

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- A. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
  - 1. Provide a minimum of two (2) openings, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
  - 2. The bottom of all openings shall be no higher than one (1) foot above adjacent grade at the opening;
  - 3. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions;
  - 4. Openings must be on different sides of the enclosed area if possible; and
  - 5. If the building has more than one enclosed area, each must have openings.
- B. Foundation enclosures:
  - 1. Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore such skirting does not require hydrostatic openings as outlined above.
  - 2. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this ordinance.
- C. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or enter to the living area (stairway or elevator).
- D. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.
- E. Shall be constructed entirely of flood resistant materials at least to the Flood Protection Elevation.
- F. The enclosed area shall not be temperature controlled.

**Commented [CD53]:** Per Model Ordinance, add language to help ensure crawl spaces subject to flooding are not converted to living space.

## Floodplain Overlay District

### 18.6.2.5 DRYLAND ACCESS

Access to Habitable Buildings during a flood event is extremely hazardous. Dryland Access must be provided to new or Substantially Improved Habitable Buildings according to the following criteria:

Dryland Access is required if any portion of either the Habitable Building or vehicular access route, connecting the Habitable Building to a public street, is within the Floodplain. If Dryland Access cannot be obtained, a Variance to the requirement for Dryland Access may be granted by the Board of Adjustment. Plans and details for the Dryland Access must be submitted by a registered professional engineer or surveyor and approved by the Floodplain Administrator. The following are exempt from the Dryland Access Requirement:

- A. Substantial Improvement to an existing Habitable Building where the property does not have any access to a Dry Public Street.
- B. Construction of a new Habitable Building where both the Habitable Building and the access route connecting it to a public street, are located entirely outside the Community Encroachment Area and where the property does not have any access to a Dry Public Street. Under this exemption, access from the Habitable Building to the public street must;
  - 1. Connect to the highest point of the public street adjacent to the property;
  - 2. Be constructed of gravel, pavement or concrete and be at least 12' wide; and
  - 3. Be constructed entirely at or above the elevation of highest point of the public street adjacent to the property.

### 18.6.2.6 FEMA FLOODWAY AND COMMUNITY ENCROACHMENT AREA

The FEMA Floodway and the Community Encroachment Area are very hazardous **areas** due to the velocity of floodwaters which carry debris and potential projectiles and have erosion potential. The following provisions shall apply within each of these designated areas:

- A. **Community Encroachment Area.** No Encroachments, requiring an Individual Floodplain Development Permit (Section [18.4.2.2](#)), including fill, New Construction, Substantial Improvements and other Development shall be permitted within the Community Encroachment Area unless it has been demonstrated through [Floodway Engineering Analysis](#) performed in accordance with standard engineering practice that such Encroachment would not result in increased flood heights of greater than 0.10' during the occurrence of a Community Base Flood. Such certification and associated technical data by a registered engineer shall be approved by the Floodplain Administrator. Any change which would cause a rise of more than 0.10' in the Community Base Flood Elevation will require notification of impacted property owners, and a Community Conditional Letter Of Map Revision (CoCLOMR) from the Floodplain Administrator. If approved and constructed, as-built plans must be submitted and approved by the Floodplain Administrator and a Community Letter of Map Revision (CoLOMR) issued. A Certificate of Occupancy will not be issued without the above stated Community Letter of Map Revision.

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Commented [CD54]: Rename to "Floodway Engineering Analysis" to be consistent throughout the ordinance.

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## Floodplain Overlay District

Projects impacting existing Habitable Buildings that increase the Community Base Flood Elevation more than 0.00' will not be allowed without a Variance.

- B. FEMA Floodway.** No Encroachments requiring an Individual Floodplain Development Permit (Section 18.4.2.2), including fill, New Construction, Substantial Improvements and other Development shall be permitted within the FEMA Floodway unless it has been demonstrated through Floodway Engineering Analysis performed in accordance with standard engineering practice that such Encroachment would not result in any (0.00') increase in the FEMA Base Flood Elevations during the occurrence of a FEMA Base Flood and no increase in the Community Base Flood Elevations during the occurrence of the Community Base Flood. Such analysis performed by a registered professional engineer shall be approved by the Floodplain Administrator. Any change which would cause a rise in the FEMA Base Flood Elevation or an increase in the FEMA Floodway width during the occurrence of the FEMA Base Flood will require notification of impacted property owners, and a Conditional Letter Of Map Revision from FEMA. If approved and constructed, as-built plans must be submitted by the property owner and approved by FEMA and a Letter Of Map Revision issued. A Certificate of Occupancy will not be issued without the above stated Conditional Letter of Map Revision.

Any change which would cause a rise in the Community Base Flood Elevation or an increase in the width of the Community Encroachment Area during the occurrence of the Community Base Flood will require notification of impacted property owners, and a Community Conditional Letter Of Map Revision (CoCLOMR).

Projects which cause a rise of greater than 0.00' in the FEMA Base Flood Elevation and impact an existing Habitable Building, will not be allowed.

- C. No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision.** A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of Section 18.6.2.8 are met.

- D. Temporary Encroachments.** Certain temporary Encroachments into the Community Encroachment Area and/or the FEMA Floodway may be exempt from meeting the requirements of Section 18.6.2.6, A. and B. Examples of temporary Encroachments include but are not limited to: sediment control devices including basins, check dams diversions, etc. temporary stream crossings, haul roads/construction entrances, storage of equipment, soil stockpiling. The following conditions that must be met to qualify for the exemption:

1. The proposed Encroachment shall not be in place more than three months and is renewable for up to one year with written approval from the Floodplain Administrator. Temporary sediment control devices may be kept in place longer than one year if required by the appropriate regulatory agency, and,
2. Supporting documentation, including a Floodway Engineering Analysis (if required by the Floodplain Administrator) must be submitted by a registered professional engineer indicating that the proposed project will not impact any existing habitable

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building or overtop any roadway surfaces.

3. The temporary Encroachment will require an Individual Floodplain Development Permit unless it is included in another IFDP.

**Commented [BJ56]:** Language for Temporary Encroachments added per Floodplain Staff's recommendation

### 18.6.2.7 ADDITIONS/IMPROVEMENTS

- A. Additions and/or improvements to pre-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure
  - 1. Are not a Substantial Improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
  - 2. Are a Substantial Improvement, both the existing structure and the addition and/or improvements must comply with the standards of Sections 18.6.2.1 and 18.6.2.2.
- B. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall require only the addition to comply with the standards of Sections 18.6.2.1 & 18.6.2.2,
- C. Additions and/or improvements to post-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure
  - 1. Are not a Substantial Improvement, the addition and/or improvements only must comply with the standards for New Construction.
  - 2. Are a Substantial Improvement, both the existing structure and the addition and/or improvements must comply with the standards of Sections 18.6.2.1 and 18.6.2.2,

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### 18.6.2.8 MANUFACTURED HOMES:

- A. New and replaced Manufactured Homes shall be elevated such that the Reference Level of the manufactured home is elevated at least one (1) foot above the Community Base Flood Elevation.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement, either by certified engineered foundation system, or in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by raising the chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certification is required.
- C. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivision located within the Special Flood Hazard Area. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

## Floodplain Overlay District

- D. All enclosures or skirting below the lowest floor shall meet the requirements of Section ~~18.6.2.4.~~

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### 18.6.2.9 RECREATIONAL VEHICLES

Shall either:

- A. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
- B. Meet all the requirements for New Construction.

### 18.6.2.10 TEMPORARY STRUCTURES

Prior to issuance of a Floodplain Development Permit for a temporary structure the following requirements must be met:

- A. All applicants must submit to the Floodplain Administrator a plan for removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:
  - 1. A specified time period for which the temporary use will be permitted. The time specified may not exceed three months, and is renewable up to one year;
  - 2. The name, address, and phone number of the individual responsible for the removal of the structure;
  - 3. The time frame prior to the event at which a structure will be removed;
  - 4. A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and
  - 5. Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be removed.
- B. The above information shall be submitted in writing to the Floodplain Administrator for review and written approval.

### 18.6.2.11 ACCESSORY STRUCTURE

When accessory structures (sheds, detached garages, etc.), are to be placed in the Floodplain the following criteria shall be met:

- A. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- B. Accessory structures shall be designed to have a low flood damage potential;
- C. Accessory structures shall be firmly anchored in accordance with Section ~~18.6.1.A.1.~~
- D. Service facilities such as electrical shall be elevated in accordance with Section ~~18.6.1.A.5.~~
- E. Accessory structures shall have hydrostatic openings per Section ~~18.6.2.4.~~

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## Floodplain Overlay District

F. Accessory structures under 150 square feet do not require an elevation or floodproofing certificate: and.

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G. Accessory structures shall not be temperature-controlled.

### 18.6.2.12 PARKING AREAS

All parking areas for new or substantially improved non-single family habitable buildings must be at an elevation such that water depths would be less than six inches deep in any parking space during the occurrence of a Community Base Flood.

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### 18.6.2.13 LEVEES

In all Community and FEMA Special Flood Hazard Areas where Community and FEMA Base Flood Elevation data have been provided, the following provisions for Levees are required.

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#### A. General Levee Requirements

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1. Levees will be treated as Development in the Floodplain and are subject to all applicable sections of this Ordinance.
2. The primary purpose of a Levee must be to protect Habitable Buildings from flooding above the Reference Level from a Community Base Flood event. However, the protection of buildings that are not Habitable Buildings or Habitable Buildings that flood in less than the Community Base Flood event are permissible incidental results of the location of the Levee.
3. With the exception of a Levee that protects a building or feature that must be located in the vicinity of a stream to be functional such as a stream monitor, water/sewer facility or other uses approved by the Floodplain Administrator, Levees require the approval of the Director of Mecklenburg County Storm Water Services, or his designee, regardless of their location within the Community Special Flood Hazard Area (entire Floodplain).
4. With the exception of a Levee that protects a building or feature that must be located in the vicinity of a stream to be functional such as a stream monitor, water/sewer facility or other uses approved by the Floodplain Administrator, the owner of the Levee and the Director of Mecklenburg County Storm Water Services, or his designee, shall conduct an Open House Forum prior to consideration of approval. The Open House Forum initiates a 30-day comment period for the Director or his designee to receive comments from the public.
5. Owners of land adjacent to a proposed Levee shall be notified of the Open House Forum and be provided an opportunity to submit written comments during the 30-day comment period. Notification is to occur through regular mail, as well as a sign being placed at a conspicuous place at the creek and along the public and private road(s) of the properties that would be protected by the proposed Levee.
6. After the end of the 30-day comment period, but no more than 60 days from the end of the comment period, the Director shall approve or disapprove the application or

## Floodplain Overlay District

request more information from the owner of the Levee. If the Director determines that the additional information is sufficiently significant, the Director may offer an additional 30-day comment period to all parties involved. Consistent with Article IV, the Director's decision may be appealed to the Zoning Board of Adjustment

7. Regardless of whether the proposed Levee would meet FEMA certification requirements, floodplain lines and flood elevations will not be modified based on the location, performance or any other aspects of the Levee.

### B. Levee Permitting Requirements

Prior to the issuance of a Floodplain Development Permit for construction of a proposed Levee, the applicant must submit the following information in writing to the Floodplain Administrator for review and written approval:

1. Plans and/or specifications showing the location of the proposed Levee is as far away from the adjacent creek as reasonably possible;
2. A copy of the written approval for the Levee received from the Director of Mecklenburg County Storm Water Services;
3. Verification of notification to owners of land adjacent to the proposed Levee (those within 500 feet of the property lines of the parcel on which the proposed Levee is to be located or within a distance equal to the length of the proposed Levee, whichever is greater), Notification is also to include properties that are in the Community Special Flood Hazard Area and within the hydraulic modeling limits as described below;
4. Copies of all written comments received from property owners referenced above;
5. Floodway Engineering Analysis showing the proposed-conditions if the Levee is proposed to be located within the Community Encroachment Area and that accounts for the future construction of other Levees;
6. A copy of the contract with the entity responsible for construction of the proposed Levee;
7. A copy of the maintenance plan for the Levee which has been certified by a NC Professional Engineer, which shall include a description of the process by which the Levee will be inspected annually and provide for updated plans to be provided annually to property owners and residents intended to benefit from the Levee.

**Commented [CD58]:** Rename to "Floodway Engineering Analysis" to be consistent throughout the ordinance.

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### 18.6.2.14 TANKS

When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- A. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the Community and/or FEMA Base Flood, including the effects of buoyancy assuming the tank is empty;
- B. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Flood Protection Elevation on a supporting structure that is

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## Floodplain Overlay District

designed to prevent flotation, collapse or lateral movement during conditions of the Community and/or FEMA Base Flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

- C. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 9-102 (b) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the Community and/or FEMA Base Flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions;
- D. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
1. At or above the Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the Community and/or FEMA Base Flood; and
  2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the Community and/or FEMA Base Flood.

### 18.6.2.15 FILL

Proposed placement of fill within the Special Flood Hazard Area requires demonstration of compliance with Section 9 and 10 of the Federal Endangered Species Act (ESA). The demonstration of compliance must be provided to the Floodplain Administrator.

**Commented [CD59]:** Per Model Ordinance, insert the Tanks section to meet the state minimum requirements and to prevent tank failure during flooding conditions.

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**Commented [CD60]:** As of October 1, 2010, FEMA (under 44 CFR 60.3(a)(2)) requires the community to document compliance with the Endangered Species Act and ensure Incidental Take permits are obtained, if needed, prior to issuing a floodplain permit. The form of the demonstration will be specified in the Technical Guidance document and can include proof of a 404 Army Corps permit, an ESA evaluation provided by a qualified professional or other method approved by the Floodplain Administrator

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## 18.7 LEGAL STATUS PROVISIONS

### 18.7.1 LEGAL STATUS PROVISIONS

#### A. Effect on rights and liabilities under the existing Floodplain Regulations.

This ordinance in part comes forward by re-enactment of some of the provisions of the Floodplain Regulations enacted January 10, 1995, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Floodplain Regulations enacted on January 10, 1995, as amended, which are not reenacted herein, are repealed.

The date of the initial Flood Damage Prevention Ordinance for Mecklenburg County is December 4, 1972.

#### B. Effect upon outstanding Floodplain Development Permits.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any Development or any part thereof for which a Floodplain Development Permit has been granted by the Floodplain Administrator before the time of passage of this Floodplain Regulation ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of two (2) years subsequent to passage of this ordinance or any revision thereto, such permit shall become void and construction or use shall be in conformity with the provisions of this ordinance.

Any application(s) for a Floodplain Development Permit received prior to the effective date of these Floodplain Regulations shall be reviewed under the regulations in effect at the time of the initial application. Any incomplete application(s) for a Floodplain Development Permit will be valid only for ninety (90) days after the Floodplain Administrator has requested additional information from the applicant or his agent. If ninety (90) days after the owner or his agent has received the request for additional information the applicant has failed to submit reasonably complete information that demonstrates a good faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator.

#### C. Expiration of Floodplain Development Permits issued after Floodplain Regulation adoption.

Individual Floodplain Development Permits issued pursuant to this ordinance expire two years after the date of issuance unless (i) the work has commenced within two (2) years after the date of issuance, or (ii) the issuance of the permit is legally challenged in which case the permit is valid for two (2) years after the challenge has been resolved.

## Floodplain Overlay District

Any incomplete application(s) for an Individual Floodplain Development Permit will be valid only for ninety (90) days after the Floodplain Administrator has requested additional information from the applicant or his agent. If ninety (90) days after the owner or his agent has received the request for additional information the applicant has failed to submit reasonably complete information that demonstrates a good faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator.

### SEVERABILITY

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

### EFFECTIVE DATE

This ordinance shall become effective upon adoption.

### ADOPTION CERTIFICATION

I hereby certify that this is a true and correct copy of the floodplain regulations as adopted by the Town of Davidson North Carolina, on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

WITNESS my hand and the official seal of \_\_\_\_\_, this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Deleted: 2015

Deleted: 2015

### APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

# DPO 18 UPDATE: FLOODPLAIN ORDINANCE



College Town. Lake Town. *Your Town.*

Section 18 Floodplain Protection Overlay District  
Planning Ordinance - Text Amendments  
BOC Public Hearing  
August 28, 2018

# TEXT AMENDMENTS UPDATE – OVERVIEW

## TOPICS COVERED

1. **Purpose & Background**
2. **Public Engagement**
3. **Strategic Plan/Core Value/Comp. Plan Alignment**
4. **Amendments Summary**
5. **Pros & Cons**
6. **Next Steps**



# SECTION 18 - TEXT AMENDMENTS

## PURPOSE & BACKGROUND

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- **Intent:** To promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas (18.1.4).
- **Present Day Need:**
  1. New Floodplain Maps become effective November 16, 2018.
  2. Davidson (as well as Charlotte, Cornelius, Huntersville, and Mint Hill) must adopt revised ordinances or risk suspension from NFIP (National Floodplain Insurance Program).
- **Background:**
  1. Process begun in 2010.
  2. Davidson (as well as Charlotte, Cornelius, Huntersville, and Mint Hill) must adopt revised ordinances or risk suspension from NFIP (National Floodplain Insurance Program).
  3. North Carolina revised the “Model Floodplain Ordinance”
  4. County staff, Stakeholder group, County Attorney, SWAC, and NCDPS have all reviewed and endorsed the amendments



# SECTION 18 - TEXT AMENDMENTS

## PUBLIC ENGAGEMENT

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- **Public Meetings:**
  - Stormwater Services Public Meetings (Sept. 2014, Aug.2016)
  - Realtor Expos (March 2016 & 2017)
  - Davidson Open House (Oct. 2016)
  - Board of Commissioners work session (August 2018)
- **Mailings:**
  - Postcards mailed to citizens announcing open houses (Sept. 2016)
  - Individual letters to affected property owners (Aug. 2018)
- **Digital + Print Media:**
  - Floodplain Flash Newsletter (April 2017)
- **Stakeholders Group & Stormwater Advisory Committee:**
  - Reviewed and endorsed proposed changes (June & July 2018)



# SECTION 18 - TEXT AMENDMENTS

## POLICY ALIGNMENT

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- **Core Values:**

- Davidson must be a safe place to live, work, and raise a family, so the town will work in partnership with the community to prevent crime and protect lives, property, and the public realm.
- Citizens must live in a healthy environment, so town government will protect watersheds, trees, air quality, and other elements of the town's ecology.

- **Comprehensive Plan:**

- Maintain quality design and sound planning principles



# SECTION 18 - TEXT AMENDMENTS

## **AMENDMENTS SUMMARY**

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- **New Map Reference Date**
- **Clarify Definitions and Standards**
- **Application of Preliminary FIRM Map Elevations**
- **Certification Requirements for Structures in Floodway**
- **Provisions for Temporary Encroachments**



# SECTION 18 - TEXT AMENDMENTS

## PROS & CONS

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### PROS:

- Ordinance maps and text up-to-date
- Limited number of Davidson homes affected (net 10 reduction)

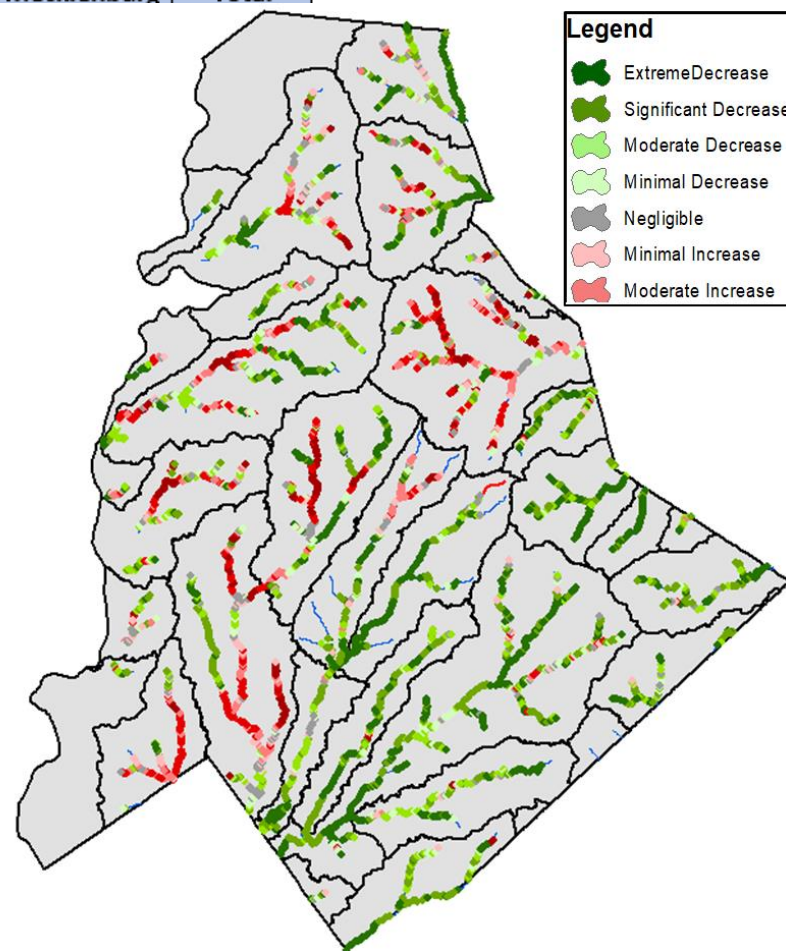
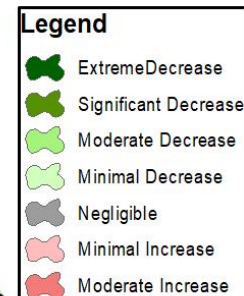
### CONS:

- **Inaction:**
  - NFIP suspension from insurance policies or renewals
  - No state or federal disaster aid eligibility
  - No federal mortgage insurance or loan guarantees in floodplain



# STATUS OF FLOOD PRONE BUILDINGS (BY COMMUNITY): BEFORE AND AFTER PHASE 3 STUDY

Status	Charlotte	Davidson	Huntersville	Mecklenburg	Total
Total FPB Pre-Phase 3	215	23	37		
Total FPB Post-Phase 3	156	13	2		
Change in Total FPB	-59	-10	-35		
FEMA FPB Pre-Phase 3	137	10	24		
FEMA FPB Post-Phase 3	108	11	1		
Change in FEMA FPB	-29	1	-23		
Community FPB Pre-Phase 3	78	13	13		
Community FPB Post-Phase 3	48	2	1		
Change in Community FPB	-30	-11	-12		
Zone X to FEMA Floodplain	17	1	0		
FEMA Floodplain to Zone X	62	6	22		
Change to FEMA floodplain status	-45	-5	-22		
Community to FEMA	30	6	0		
FEMA to Community	14	0	1		
Change to FEMA floodplain status	16	6	-1		
Zone X to Community	20	0	0		
Community to Zone X	34	5	13		
Change to Community floodplain status	-14	-5	-13		
FPB with EC FFE below FPE	36	0	0		
FPB with No FFE on EC	1	0	0		
FPB with No EC	75	5	2		



## Key:

FPB – Flood Prone Buildings (includes accessory buildings)

FEMA – Regulatory flood zone indicating insurance requirement

Community – Future Conditions flood zone indicating local regulatory requirements

Zone X – Areas outside extents of FEMA and Community floodplains

EC – Elevation Certificate, a form that includes surveyed building elevations

FFE – Finished Floor Elevation, a component of the Elevation Certificate that indicates a building's lowest livable floor

FPE – Flood Protection Elevation, a local floodplain development requirement, equal to the Community flood elevation + 1' surcharge



College Town. Lake Town. Your Town.

Section 18 Floodplain Protection Overlay District  
Planning Ordinance - Text Amendments  
BOC Public Hearing  
August 28, 2018

# SECTION 18 - TEXT AMENDMENTS

## NEXT STEPS

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- **BOC Public Hearing:** 8/28/2018
- **Planning Board Review + Recommendation:** 9/24/2018
- **BOC Action (Potential):** 10/23/2018



# QUESTIONS/ PUBLIC HEARING



College Town. Lake Town. *Your Town.*

Section 18 Floodplain Protection Overlay District  
Planning Ordinance - Text Amendments  
BOC Public Hearing  
August 28, 2018



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**Agenda Title: Consider Approval of Draft July Meeting Minutes  
Town Clerk Betsy Shores**

**Summary:** Draft meeting minutes from July 10 and July 24

**Summary:**

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**ATTACHMENTS:**

Description		Upload Date	Type
□	Draft Meeting Minutes 07-10-18	8/24/2018	Cover Memo
□	Draft Special Meeting Minutes 7-24-18	8/24/2018	Cover Memo



College Town. Lake Town. *Your Town.*

July 10, 2018

**REGULAR MEETING  
TOWN OF DAVIDSON BOARD OF COMMISSIONERS**

The Town of Davidson Board of Commissioners held its regularly scheduled meeting on Tuesday, July 10, 2018 in the Town Hall Board Room. Present were Mayor Rusty Knox and Commissioners Jane Campbell, Jim Fuller, Matthew Fort, Autumn Rierson Michael and David Sitton. Town Manager Jamie Justice, Town Attorney Cindy Reid, Finance and Town Clerk Betsy Shores were also present.

- **CALL TO ORDER**

Mayor Knox called the meeting to order at 4:30 p.m.

- **CLOSED SESSION**

*Commissioner Fuller made a motion to go into closed session per NCGS § 143-318.11 (a) (5) – 251 South Street and NCGS § 143-318.11 (a) (6) – Personnel. The motion passed unanimously (5-0)*

*At 5:55pm, Commissioner Fuller made a motion to end the closed session. The motion passed unanimously (5-0).*

The Town of Davidson Board of Commissioners returned to the Town Hall Board Room for the regularly scheduled meeting at 6:05pm. Assistant Town Manager Dawn Blobaum, Town Attorney Cindy Reid, Finance Director Pieter Swart, Planning Director Jason Burdette, Police Chief Penny Dunn, Parks & Recreation Director Kathryn Spatz and Public Works Director Doug Wright were also present.

- **ANNOUNCEMENTS**

Public Information Officer Cristina Shaul announced the following:

The Finance Department is pleased to announce that they have partnered with ClearGov, a leading municipal transparency and benchmarking platform to launch an infographic-based financial transparency center on the town's website - <http://townofdavidson.org/1162/Financial-Transparency>. This new tool provides the public with an easy-to-understand visual breakdown of the town's finances, as well as insights into the town's demographics. The site also provides budgetary comparisons to peer communities.

Charlotte Water is doing some work at the intersection of Woodland Street and Lorimer Road, requiring a detour for the rest of the week, so please plan your bike and motor vehicle route accordingly.

The Arts and Science Council presents Culture Bites on August 16 from 6:00-8:30 p.m. on the Village Green. Admission is free and all are welcome. Following the success of Culture Feast, a four-year tradition in the streets of uptown Charlotte, ASC is previewing a new concept to bring a little bit of arts, culture, food and family fun to Davidson. The event will feature singers, dancers, actors, poets and artists, providing short pop-up performances and experiences for all to enjoy. Food and drinks will be available for purchase.

The Davidson Police Department's celebration of our community, National Night Out, is Tuesday, August 7 from 5:00 to 7:00 p.m. at Roosevelt Wilson Park.

- **PUBLIC COMMENTS**

The public comments period opened at 6:10 p.m. and was closed at 6:23 p.m. Five (5) citizens spoke.

- **CHANGES TO THE AGENDA**

No changes to the agenda.

- **PUBLIC HEARING**

***Commissioner Campbell made a motion to open the Public Hearing on the Proposed Annexation of the Kenmare Subdivision. The motion passed unanimously (5-0).***

The public hearing opened at 6:25 p.m. and was closed at 6:25 p.m. No citizens spoke. Commissioners discussed improving the annexation process and the proposed annexation of the Kenmare Subdivision.

***Commissioner Fort made a motion to close the Public Hearing. The motion passed unanimously (5-0).***

Commissioner Campbell summarized the public comment.

- **CONSENT AGENDA**

**Consider Approval of June 5 and June 12 Draft Meeting Minutes**

**Consider Approval of Budget Amendments 2019-02, 2019-03, and 2019-05**

**Consider Approval of Tax Levy Adjustments for refunds from Solid Waste Fund**

***Commissioner Rierson Michael made a motion to approve the consent items. The motion passed unanimously (5-0).***

- **OLD BUSINESS**

First item discussed was the public facilities project. Assistant Town Manager Dawn Blobaum and Finance Director Pieter Swart reviewed the status of project (renovating the former IB school for town hall, and the existing town hall for the police and fire departments) including alternative cost estimates

and the estimated financial impact on taxpayers.

The second item presented by Finance Director Pieter Swart was a General Obligation Bond Order for Public Facilities.

***Commissioner Campbell introduced a Bond Order authorizing the issuance of \$16,335,000 General Obligation Public Facilities Bonds of the Town of Davidson, North Carolina.***

***Commissioner Fort moved to approve Resolution 2018-19 of \$16,335,000. There was a discussion that the approval of this resolution is part of the process in moving forward with the General Obligation Bond process. The motion passed unanimously (5-0).***

The Commissioners discussed moving the Tuesday, August 14, 2018 Board of Commissioners Meeting to Tuesday, August 7, 2018 at 7:00 p.m. to have all Commissioners in attendance and quorum.

Commissioners Fuller and Rierson Michael requested staff to work on the proposed costs of the public facilities project and look at cost saving alternatives. Town Manager Justice stated there will be an Open House at the IB School on Thursday, July 19 from 5:00 p.m. to 7:00 p.m. and tables at the Farmers Market to share information with the public.

The third item presented was the Proposed Watershed Ordinance Text Amendments by Ellen Donaldson, a member of the planning board and planning board ordinance committee and Planning Director Jason Burdette. The Town of Davidson has been considering changes to the Davidson Planning Ordinance (DPO) 17 - Watershed Protection Overlay District for several months.

***Commissioner Fort made a motion to modify the draft text changes to the watershed ordinance with the exception of sections 17.6.1, 17.6.2, and 17.6.3 with further discussion at the August 28, 2018 meeting. The motion passed unanimously (5-0).***

The fourth item was an update on the Comprehensive Plan request for proposals (RFP) presented by Town Manager Justice and Public Information Officer Cristina Shaul and the process to hire a consultant. In August, with a recommendation from the consultant-selection committee, Commissioners will select a consultant to help with this plan. A steering committee of residents, staff and elected officials will then work with the consultant for potentially 12-18 months with citizen engagement and a variety of tools to create a Comprehensive Plan. More information is available at [www.townofdavidson.org/ComprehensivePlan2018](http://www.townofdavidson.org/ComprehensivePlan2018)

The fifth item presented by Public Works Director Doug Wright was an update on the pedestrian safety flashing beacons project. These flashing beacons are activated by pedestrians who want to enter the crosswalk and provide yellow flashing signals for vehicles to yield to the pedestrians. The town will install flashing beacons at the following crosswalks - Beaty/Magnolia, Concord/Baker, Eugenia/Main, Glasgow/Main. The total cost will be \$113,420. Thank you to Davidson College for contributing to this project.

***Commissioner Campbell made a motion to approve the appropriation of \$75,000 from fund balance and recognize \$38,420 of revenue donated by Davidson College for the pedestrian safety flashing beacons project. The motion passed unanimously (5-0).***

The last item presented was Ordinance 2018-02 to Extend the Corporate Limits of the Town of Davidson to include the Kenmare Subdivision. Town Manager Justice stated this is voluntary annexation request for this property and this is the statutory last step in the process to include them in the town limits effective July 10, 2018. Commissioner Fort questioned the location of the current Davidson Town Limit sign on Concord Road heading into town. Town Manager Justice explained that the state controls the placement of the signs due to right of way but we can look into having it relocated. Commissioner Campbell asked for updated speed limit signs to reflect 25 miles per hour unless otherwise posted.

***Commissioner Fort made a motion to approve Ordinance 2018-02. The motion passed unanimously (5-0).***

- **NEW BUSINESS**

Town Manager Justice shared the during the last legislative session, the NC General Assembly approved three grants for projects in the Town of Davidson:

\$100,000 for Downtown Park/Farmers' Market area site improvements

\$100,000 for police equipment

\$100,000 for fire equipment

Commissioners discussed opening up for public input the process of receiving funding from the NC General Assembly and transparency of how the money will be spent. Commissioners would like to extend an invitation to local representatives to share the past session and future legislative agenda and budget process.

***Commissioner Campbell made a motion to open a discussion regarding the grants on the open town hall forum or other feedback to allow the citizens of Davidson to provide input on the nature of this \$300,000 coming to the Town of Davidson. The motion passed (3-2) in favor. Commissioners Campbell, Fuller and Sitton voted yes and Commissioners Fort and Rierson Michael voted no.***

The second item presented was an Amendment to the Town Manager's Contract. The only amendment to the current employment agreement is a salary increase of 3.5% to his base salary effective July 1, 2018 through June 30, 2019. Commissioner Fort commended Manager Justice on his leadership during the time of transition with a new board. Mayor Knox recognized Manager Justice and thanked him for his work and leadership.

***Commissioner Fuller made a motion to grant the raise as suggested and that it be tendered with an earnest request that Town Manager Justice stay and lead another year. The motion passed unanimously (5-0).***

- **SUMMARIZE ACTION ITEMS**

Town Manager Jamie Justice summarized action items.

- **ADJOURN**

***Commissioner Fuller made a motion to adjourn. The motion passed unanimously (5-0).***

The meeting adjourned at 9:16 p.m.

**Attest:**

---

Rusty Knox  
Mayor

---

Elizabeth K. Shores  
Town Clerk

DRAFT



College Town. Lake Town. *Your Town.*

July 24, 2018

**SPECIAL MEETING - PUBLIC HEARING  
TOWN OF DAVIDSON BOARD OF COMMISSIONERS**

The Town of Davidson Board of Commissioners held a special meeting on Tuesday, July 24, 2018 at Town Hall, 216 South Main Street, Davidson, NC. The special meeting was a Public Hearing for the proposed 2018 Public Facilities General Obligation Bond Referendum. Present were Mayor Rusty Knox and Commissioners Jane Campbell, Matthew Fort, Jim Fuller, Autumn Rierson Michael, and David Sitton. Staff included Town Manager Jamie Justice, Town Attorney Cindy Reid, Finance Director Pieter Swart, and Town Clerk Betsy Shores.

Mayor Knox called the meeting to order at 6:03 p.m.

Town Manager Justice and Finance Director Pieter Swart provided a background regarding the proposed \$16,335,000 General Obligation Bond Referendum for Public Facilities.

Public comment opened at 6:13 p.m. and closed at 6:32 p.m. Eight (8) citizens spoke.

Commissioner Fort summarized the public comment. Commissioners discussed the proposed public facilities project receiving feedback from citizens through the open town hall forum.

No action was taken.

Commissioner Fuller made a motion to adjourn. The motion passed unanimously (5-0).

The meeting adjourned at 7:08 p.m.

---

Rusty Knox  
Mayor

**Attest:**

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Elizabeth K. Shores  
Town Clerk



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**Agenda Title:** **Consider Approval of Revised Board Meeting Schedule**  
**Town Clerk Betsy Shores**  
**Summary:** Add Board Mini Retreat for Thursday, September 20, 2018 from 11:30am - 4:00pm to the Meeting Schedule

**Summary:**

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**ATTACHMENTS:**

<b>Description</b>	<b>Upload Date</b>	<b>Type</b>
No Attachments Available		



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**Agenda Title:** **Consider Approval of FY2018 Tax Collector's Settlement Statement for Mecklenburg and Iredell Counties**  
**Finance Director Pieter Swart**  
**Summary:** Enters the FY2018 Tax Collector's Settlement Statement for Mecklenburg and Iredell Counties into the official record of the Town of Davidson.

**Summary:**

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**ATTACHMENTS:**

	<b>Description</b>	<b>Upload Date</b>	<b>Type</b>
▣	FY18 Mecklenburg County Settlement Statement	8/23/2018	Cover Memo
▣	FY18 Iredell County Settlement Statement	8/23/2018	Cover Memo



## **MECKLENBURG COUNTY**

### **Office of the Tax Collector**

**To:** James Justice, Davidson Town Manager  
**From:** Neal L. Dixon, Director/Tax Collector  
**Date:** July 20, 2018  
**Subject:** Tax Collector's Settlement for Fiscal Year 2018

Pursuant to the provisions of N.C.G.S. 105-373, this memorandum is the Tax Collector's report of settlement to the Davidson Town Commission for Fiscal Year 2018 (tax year 2017).

The total FY 2018 Real Estate, Personal Property and Registered Motor Vehicle Tax charged to the Tax Collector for collection was \$6,857,626.74.

<u>Net Levy</u>	<u>Collected</u>	<u>Uncollected</u>	<u>Pct. Collected</u>
\$6,857,626.74	\$6,850,348.38	\$13,643.12	99.89%

At the end of FY 2018 there was 1 tax bill in the amount of \$1,572.32 under formal appeal with the Board of Equalization and Review or the Property Tax Commission; consequently, the Tax Collector was barred from pursuing collection for this tax bill. The Tax Collector was not barred by the U.S. Bankruptcy Court from collecting real estate, personal property, and registered motor vehicle tax bills. When the aforementioned tax bill is removed from the net levy calculation, the collection percentage increases to 99.92%.

Reference is hereby made to reports in the Office of the Tax Collector that list the persons owning real property and personal property whose taxes for the preceding fiscal year remain unpaid and the principal amount owed by each person. These reports are available for inspection and review upon request. The Tax Collector has made diligent efforts to collect the taxes due from the persons listed by utilizing the remedies available to him for collection.

**PEOPLE • PRIDE • PROGRESS • PARTNERSHIPS**

700 East Stonewall Street (28202) • P.O. Box 31457 • Charlotte, North Carolina 28231 • 980-314-4488

Tax Collector's Settlement for Fiscal Year 2018

Page 2

Prior Year Collections

During FY 2018, the Tax Collector pursued collection of delinquent prior year taxes.

Real Estate and Personal Property Tax:

<u>Tax Year</u>	<u>Net Levy</u>	<u>Collected in FY 2018</u>	<u>Uncollected</u>	<u>Pct. Collected</u>
2008	\$4,033,717.23	\$ 811.77	\$3,478.04	99.91%
2009	\$4,364,322.09	\$ 1,178.29	\$3,819.77	99.91%
2010	\$5,062,994.53	\$ 2,476.57	\$7,028.70	99.86%
2011	\$5,750,569.98	\$ 2,899.73	\$3,786.07	99.93%
2012	\$6,000,770.44	\$ 3,226.41	\$6,824.10	99.89%
2013	\$6,004,645.66	\$ 2,732.12	\$4,591.03	99.92%
2014	\$6,216,226.62	\$ 4,077.54	\$6,708.47	99.89%
2015	\$6,354,314.67	\$ 5,736.01	\$5,839.56	99.91%
2016	\$6,547,609.06	\$11,388.52	\$8,976.49	99.86%

Registered Motor Vehicle Tax:

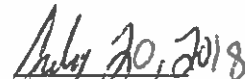
<u>Tax Year</u>	<u>Net Levy</u>	<u>Collected in FY 2018</u>	<u>Uncollected</u>	<u>Pct. Collected</u>
2014	\$93.08	\$0.00	\$93.08	0.00%
2015	\$65.29	\$0.00	\$65.29	0.00%
2016	\$ 0.00	\$0.00	\$ 0.00	N/A

Please contact me at [Neal.Dixon@MecklenburgCountyNC.gov](mailto:Neal.Dixon@MecklenburgCountyNC.gov) or 980-314-4488 if you have any questions or comments regarding this settlement report.

North Carolina General Statute 105-373(3) requires that this settlement be submitted to the governing board. The settlement shall be entered into the minutes of the governing body. Please ensure that this settlement is entered into the minutes of the governing body as required by statute.

cc: Pieter Swart, Town of Davidson Finance Director  
 Julissa Fernández, Deputy Tax Director  
 Frank Wirth, Deputy Tax Director

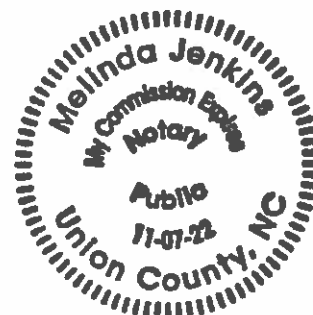
  
 Tax Collector

  
 Date

Sworn to and subscribed before me this 20<sup>th</sup> day of July, 2018

  
 Notary Public

My commission expires: November 07, 2022  
 Date



To: James Justice, Davidson Manager  
From: Bill Furches, Tax Administrator/Collector  
Date: July 9, 2018  
Subject: Tax Collector's Settlement for Fiscal Year 2018

Pursuant to the provisions of N.C.G.S. 105-373, this memorandum is the Tax Collector's report of settlement to the Davidson Town Commission for the Fiscal Year 2018 (tax year 2017).

Net Levy	\$389,343.06
Collected	\$389,343.06
Uncollected	0
Percent Collected	100%

Uncollected Balances from Prior Years

Year Assessed	Balance
2009	\$ 36.42
2010	25.81
2011	75.44
2012	38.00
2013	78.53
Total Uncollected	\$ 254.20

*Bill Furches*

Tax Collector

July 9, 2018

Sworn to and subscribed before me this 9<sup>th</sup> day of July, 2018.

Notary Public

*Laura J. Crater*

My commission expires on 3-3-2023.





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**Agenda Title: Consider Approval of FY2019 "Order of Collection" for Mecklenburg and Iredell County Tax Collectors  
Finance Director Pieter Swart**

**Summary:** The "Order of Collection" authorizes the Tax Collector to collect the ad valorem taxes as assessed by the office of the Tax Assessor. This item includes both Mecklenburg and Iredell Counties.

**Summary:**

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**ATTACHMENTS:**

<b>Description</b>	<b>Upload Date</b>	<b>Type</b>
☐ FY19 Mecklenburg County Order of Collection	8/23/2018	Cover Memo
☐ FY19 Iredell County Order of Collection	8/23/2018	Cover Memo

ORDER OF COLLECTION

NORTH CAROLINA, DAVIDSON

TO THE TAX COLLECTOR OF MECKLENBURG COUNTY

GENERAL STATUTE 105-321(b)

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records, filed in the Office of the Tax Assessor and the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be first lien upon all real property of the respective taxpayers in Davidson and this order shall be a full and sufficient authority to direct, require and enable you to levy on and sell any real and personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor of Davidson (SEAL)

Attest:

\_\_\_\_\_  
Clerk of Board

## ORDER OF COLLECTION

NORTH CAROLINA, DAVIDSON

TO THE TAX COLLECTOR OF IREDELL COUNTY  
GENERAL STATUTE 105-321(b)

You are hereby authorized, empowered and commanded to collect the taxes set forth in the tax records, filed in the office of the Tax Assessor and the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be first lien upon all real property of the respective taxpayers in Davidson and this order shall be a full and sufficient authority to direct, require and enable you to levy on and sell any real and personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand official seal, this 28<sup>th</sup> day of August, 2018.

\_\_\_\_\_(SEAL)

Rusty Knox

Mayor of Davidson

Attest:

\_\_\_\_\_  
Elizabeth K. Shores

Town Clerk



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**Agenda Title: Consider Approval for Financing of Backhoe  
Finance Director Pieter Swart**

**Summary:** The Board will consider approval of the financing for the purchase of a new backhoe (R2018-23), and related budget amendment (BA2019-08). The Board appropriated \$20,000 in the FY2019 budget for debt service on the purchase of a new backhoe of the Public Works Department. The total amount to be financed is \$104,091. The loan has duration of 8 years with an interest rate of 3.42%. Annual debt service is \$15,094.

**Summary:**

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**ATTACHMENTS:**

<b>Description</b>	<b>Upload Date</b>	<b>Type</b>
❑ Resolution 2018-23	8/22/2018	Cover Memo
❑ BA-2019-08	8/22/2018	Cover Memo



**RESOLUTION 2018-23**  
**BACKHOE FINANCING**

**WHEREAS**, the Town of Davidson (the “Town”) has previously determined to undertake a project for the financing of a backhoe (the “Project”), and the Finance Officer has now presented a proposal for the financing of such Project.

**NOW, THEREFORE, BE IT RESOLVED, as follows:**

1. The Town hereby determines to finance the Project through BciCapital, Inc., in accordance with the proposal dated August 16, 2018. The amount financed shall not exceed \$104,090.19, the annual interest rate (in the absence of default or change in tax status) shall not exceed 3.42%, and the financing term shall not exceed eight (8) years from closing.
2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.
4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).
5. The Town intends that the adoption of this resolution will be a declaration of the Town's

official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BciCapital, Inc. financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Adopted this 28<sup>th</sup> day of August, 2018.

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Rusty Knox  
Mayor

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Elizabeth K. Shores  
Town Clerk

AMENDMENT TO THE BUDGET ORDINANCE

**BE IT ORDAINED** by the Governing Board of the Town of Davidson, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2019:

**Section 1:** To amend the General Fund, the appropriations are to be changed as follows:

<u>Acct. No.</u>	<u>Account</u>	<u>Decrease</u>	<u>Increase</u>
10-20-4510-540	Vehicles		\$104,091

The Town will purchase a backhoe for the Public Works Department. The purchase is under state contract pricing.

**Section 2:** To amend the General Fund, the estimated revenues are to be changed as follows:

<u>Acct. No.</u>	<u>Account</u>	<u>Decrease</u>	<u>Increase</u>
10-60-3493-910	Loan Proceeds		\$ 104,091

The Town will finance the purchase of a new backhoe based on the result of an RFP.

**Section 3:** Copies of this budget amendment shall be furnished to the Clerk of the Governing Board, and to the Budget Officer and the Finance Officer for their direction.

Adopted this 28<sup>th</sup> day of August, 2018



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**Agenda Title:** **Consider Approval of Request from Park at Beaty Task Force for Amendments to Resolution 2018-06**

**Parks and Recreation Director Kathryn Spatz**

**Summary:** This clarifies the charge of the Park at Beaty Street Task Force. The changes were discussed at the August 7 Board of Commissioners meeting.

**Summary:**

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**ATTACHMENTS:**

<b>Description</b>	<b>Upload Date</b>	<b>Type</b>
❑ Agenda Memo - Revised Resolution for Park at Beaty Street Task Force	8/23/2018	Cover Memo
❑ Resolution 2018-06	8/14/2018	Cover Memo
❑ Resolution 2018-06 Amended	8/23/2018	Cover Memo



## Modification of Charge for Park at Beaty Street Task Force

Date: August 28, 2018  
To: Davidson Board of Commissioners  
From: Kathryn Spatz, Parks and Recreation Director  
Re: Revision of Charge for Park at Beaty Street Task Force

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### 1. OVERVIEW

At its March 13, 2018 meeting, the Board of Commissioners voted to create a task force to develop the town-owned land on Beaty Street as a park. On April 10, the Board of Commissioners formally adopted a resolution to begin the conceptual plan process for the park at Beaty Street, seeking applicants for a citizen task force, and approving a charge for the task force. The Board of Commissioners appointed task force members in early May and the task force has been meeting since. At its initial check-in with the Board of Commissioners on August 7, chair Denise Beall and vice-chair Dave Cable recommended refinement of the one bullet of the charge of the task force and adding an additional bullet to better clarify the intent of the Board of Commissioners in creating the task force. The language in tonight's resolution is what was discussed on August 7.

### 2. RELATED TOWN GOALS

N/A

### 3. OPTIONS/PROS & CONS

Pro: the task force will have more clarity to complete its work and report back to the Board of Commissioners.

### 4. FYI or RECOMMENDED ACTION

We recommend the Board of Commissioners approve the revised resolution as presented this evening.

### 5. NEXT STEPS

If approved, the revised resolution will replace the original charge of the Park at Beaty Street Task Force.



### Resolution 2018-06

**Authorizing the Manager to Begin the Conceptual Plan Process for the Park at Beaty Street.**

**WHEREAS**, a conceptual plan process will allow the community and the Board of Commissioners to fully explore potential programs for a park on Beaty Street; and

**WHEREAS**, Community stakeholders including, adjoining neighborhoods, citizens at large, and Livability Board members, all of whom must apply to serve; and

**WHEREAS**, Parks & Recreation Director, with support from representative, Mecklenburg County Parks & Recreation, Natural Resources Division shall serve as staff liaison to the Task Force; and

**WHEREAS**, the Manager is authorized to advertise for applicants for the Task Force; and

**WHEREAS**, the Board of Commissioners shall appoint the Park at Beaty Street Conceptual Plan Task Force and that it shall be retired after the Board of Commissioners adopt a concept plan; and

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the Town of Davidson that the once established Park at Beaty Street Conceptual Plan Task Force is charged with the following:

- Sponsor public forums to solicit community input and identify recreational needs
- Identify and evaluate all assets on-site
- Investigate park and recreation elements needed, including walking trails and other amenities
- Consider ancillary uses as appropriate, respecting historic character of surrounding parcels
- Develop planning level cost estimates for the various options to help in setting priorities and developing financing plans
- Evaluate each option on the basis of capital and operational costs, potential impacts on the natural environment, potential revenues, recreational needs and effect on programs
- Meet with the Davidson Board of Commissioners for review and comment before making final recommendations
- Make recommendations for the consideration of the Davidson Board of Commissioners

**Adopted on the 10th day of April, 2018.**

  
Rusty Knox, Mayor

**Attest:**

  
Carmen Clemsic, Town Clerk



## **Resolution 2018-06**

### **Authorizing the Manager to Begin the Conceptual Plan Process for the Park at Beaty Street.**

**WHEREAS**, a conceptual plan process will allow the community and the Board of Commissioners to fully explore potential programs for a park on Beaty Street; and

**WHEREAS**, Community stakeholders including, adjoining neighborhoods, citizens at large, and Livability Board members, all of whom must apply to serve; and

**WHEREAS**, Parks & Recreation Director, with support from representative, Mecklenburg County Parks & Recreation, Natural Resources Division shall serve as staff liaison to the Task Force; and

**WHEREAS**, the Manager is authorized to advertise for applicants for the Task Force; and

**WHEREAS**, the Board of Commissioners shall appoint the Park at Beaty Street Conceptual Plan Task Force and that it shall be retired after the Board of Commissioners adopt a concept plan; and

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the Town of Davidson that the once established Park at Beaty Street Conceptual Plan Task Force is charged with the following:

- Sponsor public forums to solicit community input and identify park and recreation needs along with ancillary public amenities in keeping with the natural, park-like setting and the hardwood tree canopy.
- Identify and evaluate all assets on-site
- Investigate park and recreation elements needed, including walking trails and other amenities
- Consider ancillary uses as appropriate, respecting historic character of surrounding parcels
- Develop planning level cost estimates for the various options to help in setting priorities and developing financing plans
- Evaluate each option on the basis of capital and operational costs, potential impacts on the natural environment, potential revenues, recreational needs and effect on programs
- Meet with the Davidson Board of Commissioners for review and comment before making final recommendations
- Make recommendations for the consideration of the Davidson Board of Commissioners
- Consider opportunities beyond current boundaries of Beaty property portfolio that may enhance park, public spaces and natural resource experience for the community.

**Amended on the 28<sup>th</sup> day of August, 2018.**

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Rusty Knox, Mayor

**Attest:**

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Elizabeth K. Shores



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**Agenda Title: Consider Approval of Budget Amendments  
Finance Director Pieter Swart**

**BA 2019-09:** Allocates \$50,000 of fund balance as requested by the Park at Beaty Street Task Force to complete the conceptualization phase of the project. The budget includes \$26,000 for the Land Survey and \$15,000 for the hydrology study.

**BA 2019-10:** Recognizes the revenue from a \$5,000 grant received from the Arts and Sciences Council for the public art fund project, and the related expenses. The project is a sensory garden at Roosevelt Wilson Park.

**Summary:**

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**ATTACHMENTS:**

<b>Description</b>	<b>Upload Date</b>	<b>Type</b>
❑ BA 2019-09	8/24/2018	Cover Memo
❑ Park at Beaty Budget August 7 2018	8/24/2018	Cover Memo
❑ BA 2019-10	8/23/2018	Cover Memo

AMENDMENT TO THE BUDGET ORDINANCE

**BE IT ORDAINED** by the Governing Board of the Town of Davidson, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2019:

**Section 1:** To amend the General Fund, the appropriations are to be changed as follows:

<u>Acct. No.</u>	<u>Account</u>	<u>Decrease</u>	<u>Increase</u>
10-80-6140-499	Miscellaneous		\$ 50,000.00

Budgeted expenditures will fund conceptualization phase expenses of the Park at Beaty Street task force.

**Section 2:** To amend the General Fund, the estimated revenues are to be changed as follows:

<u>Acct. No.</u>	<u>Account</u>	<u>Decrease</u>	<u>Increase</u>
10-00-3990-980	Fund Balance Appropriated		\$ 50,000.00

Allocates fund balance for Park at Beaty Street Task Force expenses.

**Section 3:** Copies of this budget amendment shall be furnished to the Clerk of the Governing Board, and to the Budget Officer and the Finance Officer for their direction.

Adopted this 28th day of August, 2018

## Proposed Budget as presented August 7, 2018

### Beaty Park Task Force - Preliminary Operating Budget Summary - Conceptualization Phase

<u>Item</u>	<u>Amount*</u>	<u>Description</u>
Public Input - Materials	1,000	Business Cards, Pencils, Flyers, Signage, etc.
Public Input - Digital Survey	200	Survey Monkey @ \$30/month
Task Force Final Presentation	500	
Legal & Title issues	1,500	Possible Legal Follow Up to Survey If Needed
Site Survey - Wetlands	1,000	Analysis and mapping of wetland areas
Hydrologic Study	2,500	To Better Understand Water Flows on Property
Environmental Site Assessments	TBD	Possible Phase I or II, TBD
Dam Evaluation including Land Survey & Topo Analysis	20,000	Cost Dependant on Park Plan - may vary widely from estimate plus Full Topographic Property Survey, Ariel Survey, Research
Other Natural Resource Evaluation & Misc.	<u>TBD</u>	
<b>TOTAL*</b>	<b>26,700</b>	

\* Notes: All figures are rough estimates and are subject to change. Costs pertain to conceptualization of the park, not permitting or implementation of a park plan. Excluded are miscellaneous costs of printing and mapping provided by the Town, along with fees paid for Gary Fankhauser's support of the Task Force's efforts.

AMENDMENT TO THE CAPITAL PROJECT ORDINANCE

**BE IT ORDAINED** by the Governing Board of the Town of Davidson, North Carolina, that the following amendment be made to the Capital Project Ordinance for the Arts Project Fund:

**Section 1:** To amend the General Fund, the estimated revenues are to be changed as follows:

<u>Acct. No.</u>	<u>Account</u>	<u>Decrease</u>	<u>Increase</u>
34-00-3492-771	ASC Grant		\$ 5,000

The Town received a \$5,000 grant from ASC for the Sensory Garden at RWP

**Section 2:** To amend the General Fund, the expenditure appropriations are to be changed as follows:

<u>Acct. No.</u>	<u>Account</u>	<u>Decrease</u>	<u>Increase</u>
34-00-6140-401	SENSORY GARDEN@RWP		\$ 5,000

This amendment provides additional expense authority for the Sensory Garden @ RWP in the Arts Project Fund

**Section 3:** Copies of this budget amendment shall be furnished to the Clerk of the Governing Board, and to the Budget Officer and the Finance Officer for their direction.

Adopted this 28<sup>th</sup> day of August, 2018



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**Agenda Title: Consider Approval of Ordinance O2018-03 (DPO Section 17 Watershed Text Amendments) & Consistency Statement**

**Planning Director Jason Burdette:** In March 2017, Mecklenburg County, the town's partner in administering the ordinance (with oversight from the NC Department of Environmental Quality, "NCDEQ"), requested that Davidson: update/clarify standards, address persistent issues and inconsistencies and, remove inapplicable sections. Over the past four months, staff has been working with the Planning Board Ordinance Committee (PBOC) to review the watershed ordinance and proposed changes, and to suggest/draft edits. Adoption of a consistency statement is required by statute whenever a governing board adopts a text amendment.

**Summary:**

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**ATTACHMENTS:**

	<b>Description</b>	<b>Upload Date</b>	<b>Type</b>
□	Agenda Memo - DPO Section 17: Watershed Ordinance Text Amendments	8/22/2018	Cover Memo
□	DPO 17 Watershed Staff Analysis	8/22/2018	Backup Material
□	DPO 17 Draft Text	8/22/2018	Backup Material
□	Ordinance 2018-03 Watershed Text Amendments	8/24/2018	Cover Memo
□	DPO 17: Watershed Presentation	8/22/2018	Presentation
□	DPO 17: Consistency Statement	8/22/2018	Backup Material



## Consider Approval of DPO Section 17: Watershed Ordinance Text Amendments

Date: August 28, 2018  
To: Board of Commissioners  
From: Jason Burdette, Planning Director  
Re: DPO Section 17 (Watershed Ordinance) - Text Amendments

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### 1. OVERVIEW

- **Purpose:** The watershed standards, in place since 1993, maintain clean water in Lake Norman by requiring vegetative buffers and limiting the amount of "built-upon-area" (BUA) placed on a lot.
- **Background:** In March 2017 Mecklenburg Co., the town's partner in administering the ordinance (with oversight from NCDEQ), requested that Davidson: Update/clarify standards; address persistent issues and inconsistencies; and, remove inapplicable sections.
- **Efforts:** Town staff worked with Mecklenburg Co. and NCDEQ from March 2017 until January 2018 to prepare draft changes. In January 2018 the Planning Board's Ordinance Committee (PBOC), which is comprised of citizen volunteers, began reviewing the topics, proposed changes, and meeting with citizens as well as town/county/state staff and elected officials to tailor the standards to fit Davidson's needs.

A public hearing was held in May 2018. The Planning Board provided a recommendation in support of the amendments at their May meeting. The Board of Commissioners elected not to take action on the amendments in their current form. At the July 2018 Board of Commissioners work session, the Board asked the PBOC to revise Sections 17.6.1 Expansions to Existing Development and 17.6.2 Existing Lot of Record to retain the existing exemptions for single-family residential structures. The Board of Commissioners also asked for the removal of Section 17.6.3 Redevelopment. The requested revisions were made to the draft watershed ordinance.

### 2. RELATED TOWN GOALS

The primary goal is to protect water quality. This is a stated goal in the town's core values and in the comprehensive plan. Ancillary impacts of adopting the watershed text amendments touch on a number of items identified in the strategic plan.

#### STRATEGIC PLAN ALIGNMENT

- **Community Engagement Strategy:** The Town of Davidson will have inclusive engagement with the community to encourage substantive, respectful, and open dialogue, increase participation, and foster a sense of belonging.

### CORE VALUES

Citizens must live in a healthy environment, so town government will protect watersheds, trees, air quality, and other elements of the town's ecology.

### COMPREHENSIVE PLAN

- Enable Faithful Stewardship of the Natural and Historic Resources
- Maintain quality design and sound planning principles

### CONSTITUENTS SERVED

- All Citizens: Residents across town are impacted by the water quality of Lake Norman, which serves as a drinking water supply for the region. This applies to businesses, too, that depend on clean water for their operations.

## 3. OPTIONS/PROS & CONS

### PROS & CONS

#### PROS:

- **Environmental Regulations:** Up-to-Date, Effectively/Fairly Applied
  - » The amendments will bring the watershed ordinance up to date, significant portions of which haven't changed since the 1990s.
  - » The amendments will treat landowners more consistently across and within lots types (i.e. residential, non-residential).
- **Increased Administrative Clarity:** Improve Consistency, Reduce Landowner Frustration
  - » The reorganization of sections and clarifications of process will lead to clearer criteria and more consistent treatment of properties.

#### CONS:

- **Inaction:** Persistence of Exemptions/Regulatory Disparity for Decades
  - » With recent development pressures and the conversion of entire sections of streets into new housing, the enduring disparity in treatment of older vs. newer lots has become more pronounced. That these disparities would continue if adequate measures are not adopted is important to consider.

## 4. FYI/RECOMMENDED ACTION

Approve the text amendments as provided.

## 5. NEXT STEPS

N/A



## STAFF ANALYSIS: WATERSHED ORDINANCE TEXT AMENDMENTS

Date: August 28, 2018  
To: Board of Commissioners  
From: Jason Burdette, Planning Director  
Re: Davidson Planning Ordinance Section 17 (Watershed Ordinance) - Text Amendments

*Note: The following summary reviews the purpose and history of the proposed changes; highlights substantive changes; and, includes discussion topics related to Davidson Planning Ordinance (DPO) Section 17. Proposed changes are annotated in the draft DPO accompanying these materials.*

### 1. OVERVIEW

- **Purpose:** The standards, in place since 1993, maintain clean water in Lake Norman by requiring vegetative buffers and limiting the amount of "built-upon-area" (BUA) placed on a lot.
- **Background:** In March 2017 Mecklenburg Co., our partner in administering the ordinance (with oversight from NCDEQ), requested that Davidson: Update/clarify standards; address persistent issues and inconsistencies; and, remove inapplicable sections.
- **Efforts:** Town staff worked with Mecklenburg Co. and NCDEQ from March 2017 until January 2018 to prepare draft changes. In January 2018 the Planning Board's Ordinance Committee (PBOC), which is comprised of citizen volunteers, began reviewing the topics, proposed changes, and meeting with citizens as well as town/county/state staff and elected officials to tailor the standards to fit Davidson's needs.

The PBOC has continued to work on a revised set of standards since the 5/8/2018 public hearing. At the 7/10/2018 Board of Commissioners work session, the Board asked the PBOC to revise Sections 17.6.1 Expansions to Existing Development and 17.6.2 Existing Lot of Record to retain the existing exemptions for single-family residential structures. The Board of Commissioners also asked for the removal of Section 17.6.3 Redevelopment. The requested revisions were made to the draft watershed ordinance.

### 2. PROPOSED CHANGES

#### SECTION 17.3: DEFINITIONS

- **Remove "Cluster Development" Definition:** Cluster Developments aren't an allowed development type in Davidson.
- **Add "Expansion" Definition (not previously defined):** The definition is needed so that a building can't be taken down to all but its foundation or a single wall and then claimed as an expansion, which in some cases affords more BUA to be put on a site compared to a demolition.

- **Add “Existing Development” and “Redevelopment” Definitions:** Both definitions do not currently exist and were added per Meck. County recommendation.
- **Revise “Low-Density” and “High-Density” Definitions:** NCDEQ suggested this revision. In the current ordinance, the definitions of high/low density are based on whether or not a development contains engineered stormwater. In practice, however, a development is determined to be high or low density based on the proposed built-upon area (BUA). If a development is over 24% BUA it’s high density. Then because it is high density, engineered stormwater is required. The revisions clarify the criteria are based on BUA and not engineered stormwater.
- **Revise “Variance” Definitions:** Made sure that same language is used in each and clarified that variances are from “Town” standards, which are stricter than state standards in some instances. Additionally, the definitions were revised to match the Environmental Management Commission’s (EMC) definitions. The EMC would not issue a decision on a variation that is not a major variance as they define it in 15A NCAC 2B .0202(42).

#### SECTION 17.6.4 EXISTING DEVELOPMENT

- **Remove Section:** This is a repeat of Section 17.6.1.

#### SECTION 17.6.1: EXPANSIONS TO EXISTING DEVELOPMENT

- **Shift Non-Conformities Statement:** This statement was moved to the start of 17.6 since it applies to the entire section rather than just 17.6.1-2.
- **Keep Existing Single-Family Exemption:** There were minor changes made to this section for the sake of clarity (i.e. the term “density calculations” was replaced with “impervious calculations”). The exemption for expansions to existing single-family residential structures was retained.

#### SECTION 17.6.2: EXISTING LOTS OF RECORD

- **Keep Existing Single-Family Exemption:** The term “pre-existing lot” was replaced with “existing lot of record” for consistency with defined terms in the ordinance. The existing exemption for lots of record developed for single-family residential purposes remains unchanged.

#### SECTION 17.6.3: NONCONFORMING SITUATIONS

- **Remove Nonconforming Section:** This section was removed because it conflicted with DPO 12 Nonconformities; referencing only one set of standards is important in providing clear guidance. Additionally, a statement noting that nonconformities are dealt with in DPO 12 was included at the start of 17.6.1.

#### SECTION 17.7 WATERSHED SUBAREAS ESTABLISHED

- **Update Geographic Terms:** This proposed text clarifies that there is no Lake Norman Protected Area located within the jurisdiction of the Town of Davidson.

#### SECTION 17.7.1 CRITICAL AREA (CA)

- **Update Intent:** The proposed text clarifies the intent of the Watershed Ordinance standards and removes the maximum of two dwelling units per acre rule because the standards do not differentiate residential development from other development types in regards to maximum BUA requirements.

#### SECTION 17.7.1.1 ALLOWED USES

- **Revise Subsection C:** Language referencing specific residential uses was removed. Specific residential uses permitted in the watershed are outlined in Section 2 of the planning ordinance.

#### SECTION 17.7.1.2 BUILT-UPON AREA LIMITS:

- **Remove Dwelling Unit Text, Clarify “Low-Density” & “High-Density” Terms:** Language related to a maximum of two dwelling units per acre rule was removed because the standards are not based on use but land coverage. Similarly, a sentence was added clarifies that these terms refer to the amount of hardscape on a site (i.e. land coverage) and not units/acre.
- **Include Contiguous Tract Requirement:** The proposed text includes specific language ensuring that only contiguous parcels that are part of the same plan can be used in determining BUA. This prevents projects with multiple, non-contiguous parcels from using the BUA from nearby but undeveloped parcels to build more on the project site parcel.
- **Add Reserve BUA Criteria:** Meck. County requested adding a requirement for residential development to allow for homeowners to add additional BUA in the future and still be within the maximum 24% BUA (i.e. patio construction).

#### SECTION 17.7.2 CLUSTER DEVELOPMENT

- **Remove Section:** These aren’t an allowed development type in Davidson.

#### SECTION 17.7.3 HIGH-DENSITY OPTION

- **Update Geographic Terms:** This proposed text clarifies that there is no Lake Norman Protected Area located within the jurisdiction of the Town of Davidson (17.7.3.A).
- **Engineered Stormwater/Single-Family Lots:** Language was added to clarify Meck. County does not allow these property types to install stormwater facilities for credit towards the BUA requirements because they would require legal agreements with Meck. County for their design, operations, inspections and maintenance. Also, for individual homeowners they are expensive to construct and maintain (17.7.3.A.1).
- **Bond/Security Standard:** This text was added to reference existing Town of Davidson requirements, ensuring that the bond fees paid are consistent with established processes (17.7.3.D).
- **Stormwater Control Structure Specification:** The text was modified to reference the Meck. County's Stormwater Design Manual, which includes an array of stormwater control devices including but not limited to wet detention ponds. The current language is limiting because it recognizes only one control structure whereas, in practice, multiple approaches can be/are used on the same site (i.e. a wet detention pond, a sand filter, drainage swale) as part of a complete treatment system. The language allows flexibility in what devices are selected to meet the required treatment criteria (17.7.3.H).
- **Remove Incorrect References:** Incorrect ordinance references/citations throughout 17.7.3 High Density Option were removed.

#### SECTION 17.7.4 BUFFER AREAS REQUIRED

- **Update Measurement Techniques/Management Requirements:** This language was revised per Meck. County’s recommendation to clarify how buffers are measured and what actions may be undertaken within buffer areas with Planning Director approval. The new text further limits undesirable clearing of shoreline areas and requires additional approval.

#### SECTION 17.7.7 VARIANCES/PROCESS

- **Reorganized:** This section was largely reorganized to provide clarification on the process for Board of Adjustment hearings for both major and minor watershed variance requests. Based on experience with recent variances, a Preparation/Content description was added to clarify the

content requirements of public notification letters for Board of Adjustment hearings (17.7.7.4.a).

#### SECTION 17.8.1.B: BUILT-UPON AREA AVERAGING/ELIGIBILITY & USES

- **Uses:**
  - Comments from the Board of Commissioners and PBOC recommended applying a filter to allow only certain types of uses promoting an identified public interest to utilize the averaging process. The text amendments propose allowing the following uses to be considered automatically eligible for the averaging program: Residential uses intended to meet an identified housing need (i.e. less than 120 percent of AMI), or Civic/Educational/Institutional uses as defined by the Davidson Planning Ordinance. Additional uses may be considered by the Board of Adjustment on a case by case basis.
  - The language also clarifies Meck. County's policy that individually-owned single-family residences are not eligible to be receiving sites due to the on-going operations, maintenance, and inspection requirements of engineered stormwater (see 17.7.3.H above for a fuller explanation).

#### SECTION 17.8.2.B.6: BUILT-UPON AREA AVERAGING/PROCESS/BOA DECISION

- **Board of Adjustment (BOA) Decision:** Comments requested that the changes consider shifting approval from the BOA to the Board of Commissioners (BOC). Draft text was drafted, reviewed, and withdrawn – the decision's quasi-judicial nature limits the BOC's ability to engage with citizens to discuss any case. However, to address concerns about incompatible development being approved, the amendments now include revised language clarifying the BOA's ability to deny a proposal based on adopted plans and policies.
- **To Summarize 17.8.1.B & 17.8.2.B.6:** The PBOC extensively debated the merits of this program and/or how to improve it. Options considered were:
  - A. Do Not Modify: Leave unchanged within the ordinance;
  - B. Require Board of Commissioners (BOC) Approval: Shift decision-making away from BOA and give to BOC;
  - C. Enhance Board of Adjustment (BOA) Discretion: Give the BOA greater discretion in reviewing/denying proposals;
  - D. Allow Only Select Projects: Ensure only projects advancing clearly-identified town aims could utilize the program;
  - E. Remove from the Ordinance: Take it out/do not allow it at all.

Through the course of research and discussions with the NC Department of Environmental Quality, the PBOC learned that even if the BUAA program were removed from the Town of Davidson Watershed Ordinance, landowners would still have the option to utilize the program because it's state law – and, in doing so, they would utilize it according the state's parameters, some of which the PBOC found inconsistent with town aims. Therefore, the PBOC opted to pursue Options C-D.

In sum, as a result of the proposed amendments:

1. The BOA would only review a BUA Averaging request/plan that had received approval through the requisite development process – complete with public input, staff review, and Planning Board comment;
2. Based on the proposed changes, even after that initial approval the BOA's discretion to deny the proposal has been expanded; and

3. Only the following uses are considered automatically eligible for the averaging program: Residential uses intended to meet an identified housing need (i.e. less than 120 percent of AMI), or Civic/Educational/Institutional uses as defined by the Davidson Planning Ordinance. Additional uses may be considered by the Board of Adjustment on a case by case basis (this is both practical – in the event an unforeseen but exceptional project emerges – and legally-advisable, since state law does not restrict potential applicants).

### 3. 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.”

### 4. PLANNING BOARD RECOMMENDATION

On May 21, 2018 the proposed text amendments came before the Planning Board for a formal recommendation. The Planning Board voted 9-0 in support of the proposed text amendments and signed a consistency statement.

During the public hearing, citizens expressed concern related to limiting the existing exemptions for single-family lots and downtown redevelopment (i.e. sections 17.6.1-6.3). In July, the Planning Board Ordinance Committee recommended adopting the ordinance, save for sections 17.6.1-6.3. The Board of Commissioners directed staff to move forward with the proposed revisions to Section 17, except for the sections related to limiting existing exemptions and downtown redevelopment.

### 5. STAFF RECOMMENDATION

The proposed changes aim to: update and clarify standards, address persistent issues and inconsistencies, and remove inapplicable ordinance sections. Specific explanations are provided in Section 2 above. These changes are recommended for approval in order to accurately reflect the intent of the Watershed Protection Overlay District standards.

## CHAPTER 17: Watershed Protection Overlay District - Update (July 23, 2018)

[Insert map showing critical watershed area]

### 17.1 Authority and Enactment

The Legislature of the State of North Carolina has, in Chapter 160A, Article 8, Section 174, General Ordinance Authority; and in Chapter 143, Article 21, Watershed Protection Rules, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Davidson Board of Commissioners does hereby ordain and enact into law the text contained herein to satisfy said statutory requirements.

### 17.2 Jurisdiction

The provisions of this section shall apply only within areas designated as Water Supply Watersheds by the NC Environmental Management Commission and shall be depicted on the Town of Davidson's Watershed map. Where there is a conflict between the regulations contained in this section and any other portion of the Planning Ordinance, the provision of this section shall apply to properties located within a designated Water Supply Watershed area.

### 17.3 Definitions

For the purpose of interpreting this section, certain words or terms are herein defined. Except as defined herein, or in Section 16 - Definitions, all other words shall have their everyday dictionary definition. Where a term is defined in this section and in Section 16 Definitions, the definition in this section shall apply to this section only.

**Agricultural Use:** The use of waters for stock watering, irrigation, and other farm purposes.

**Animal Unit:** A unit of measurement developed by the US Environmental Protection Agency that is used to compare different types of animal operations.

**Buffer, Vegetative:** An area of natural or planted vegetation through which stormwater runoff flows in a diffused manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of Lake Norman and from the top of the bank on each side of streams.

**Built-Upon Area:** Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.) Built upon areas shall be determined on a project-by-project basis.

**Cluster Development:** ...

**Composting Facility:** A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

**Commented [LL1]:** All comments below are labeled NCDEQ, MC, or PBOC to identify the party responsible for each suggested revision. These abbreviations mean the following:

-NCDEQ for NC Department of Environmental Quality  
-MC for Mecklenburg County  
-PBOC for Planning Board Ordinance Committee

Comments summarize the reason for each proposed change.

**Commented [LL2]: [PBOC]** Remove definition—Cluster Developments aren't an allowed development type in Davidson.

**Critical Area:** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

**Development:** Any land disturbing activity which adds to or changes the amount of impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

**Discharging Landfill:** A facility with liner, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

**Expansion:** Any walled and roofed extension of or increase in the floor area or height of an existing building connected by a load-bearing wall; and/or, an increase in the built-upon area to site components such as parking, improvements, or other structures. For the purpose of the watershed ordinance, any expansion shall be required to have preserved at least 50% of the interior heated floor area.

**Existing Development:** Projects that are built or projects that have established a vested right under North Carolina zoning law as of the effective date of this ordinance (October 1, 1993) based on at least one of the following criteria:

- (a) Having an approved site specific or phased development plan; or
- (b) Having an outstanding valid building permit; or
- (c) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government written approval to proceed with the project.

**Existing Lot of Record:** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to October 1, 1993 of this ordinance, or a lot described by metes and bounds, the description of which has been recorded prior to October 1, 1993. (Note: This definition containing the October 1, 1993 stipulation shall be applicable only to Section 17 of this ordinance.)

**Hazardous Material:** Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 or CWA (oil and hazardous substances).

**High Density Option:** Any new development which exceeds 24 percent built-upon area (BUA), requiring engineered stormwater control devices approved by the Town of Davidson as prescribed by the Environmental Management Commission's adopted Water Supply Watershed Protection rules.

**Industrial Development:** Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning, or developing any product or commodity.

**Commented [LL3]: [PBOC]** This definition was added to help distinguish between what constitutes an expansion and a demolition.

**Commented [LL4]: [MC]** Existing Development was not previously defined in Section 17 of the ordinance, but the term is referenced several times in this section.

The proposed definition is taken directly from state statute (G.S. 15A NCAC 02B .0202)

**Commented [LL5]: [NCDEQ]** In the current ordinance, the definitions of high/low density are based on whether or not a development contains engineered stormwater. In practice, however, a development is determined to be high or low density based on the proposed built-upon area (BUA). If a development is over 24% BUA it's high density. Then because it is high density, engineered stormwater is required. The revisions clarify the criteria are based on BUA and not engineered stormwater.

**Landfill:** A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the N.C. General Statutes. For the purpose of Section 17, this term does not include compost facilities.

**Low Density Option:** Any new development which does not exceed 24 percent built-upon area (BUA).

**Commented [LL6]: [NCDEQ]** see comment for High Density Option definition.

**Plat:** A map or plan of a parcel of land which is to be, or has been subdivided.

**Protected Area:** The area adjoining and upstream of the critical area in a WS-IV water supply in which protection measures are required. The boundaries of the protected areas are defined as extending five miles upstream and draining to water supply reservoirs (measured from the normal pool elevation) or to the ridge line of the watershed (whichever comes first); or ten miles upstream and draining to the intake located directly in the stream or river (run-of-the-river), or to the ridge line of the watershed (whichever comes first). Major landmarks such as highways or property lines may be used to delineate the outer boundary of the protected area if these landmarks are immediately adjacent to the appropriate outer boundary of five or ten miles. In some cases the protected area will encompass the entire watershed.

**Redevelopment:** Rebuilding activities, including demolition, on land containing built upon area as of the effective date of this ordinance (October 1, 1993).

**Commented [LL7]: [MC]** Redevelopment is not defined in the current ordinance.

**Residential Development:** Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

**County's initially suggest text is as follows:**  
"Redevelopment: Rebuilding activities on lands containing built upon area as of the effective date of this ordinance."

**Toxic Substance:** Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

**Variance, Major:** A variance from the minimum Town's watershed protection rules that results in any one or more of the following:

1. The relaxation by a factor greater than five percent of any buffer, density or built-upon area requirement under the high density option;
2. Any variation in the design, maintenance, or operation requirements of approved stormwater management systems;
3. The relaxation by a factor greater than 10 percent of any buffer, density or built-upon area requirement under the low density option.

**Commented [LL8]: [NCDEQ]** The definition for Variance, Major was revised to match the Environmental Management Commission's (EMC) definition. The EMC would not issue a decision on a variation that is not a major variance as they define in 15A NCAC 2B .0202(42)

**Commented [LL9]: [PBOC]** "Town's" was added to clarify that a variance is from town standards, which are often more stringent than state standards. This change also applies to the Variance, Minor definition.

**Variance, Minor:** A variance from the minimum Town's watershed protection rules that results in any one or more of the following:

1. The relaxation by a factor of up to, and including, five percent of any buffer, density or built-upon area requirement under the high density option;
2. The relaxation by a factor up to, and including, 10 percent of any buffer, density or built-upon area requirement under the low density option.

**Commented [LL10]: [NCDEQ]** See comment for Variance, Major

**Commented [LL11]: [PBOC]** This language was added to be consistent with Item 1. in each definition, Variance Major/Minor. The previous language was inconsistent and not clear ("...land management requirement...").

**Watershed:** The entire land area contributing surface drainage to a specific point (e.g. the water supply intake).

#### **17.4 Effective Date and Adoption Date**

Section 17 shall take effect and be in force on October 1, 1993. The Davidson Board of Commissioners adopted it on September 14, 1993.

#### **17.5 Rules Governing the Interpretation of Watershed District Boundaries**

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Davidson Watershed Map, the following rules shall apply:

1. Where watershed district boundaries are indicated as approximately following either street, alley, railroad or highway lines or center lines thereof, such lines shall be construed to be the watershed district boundaries.
2. Where watershed district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be the watershed district boundary. However, a surveyed plat prepared by a registered land surveyor may be submitted to the Planning Director as evidence that one or more properties along these boundaries do not lie within the watershed area.
3. Where the watershed district boundary lies at a scaled distance of more than 25 feet from an adjoining lot line, the location of the watershed district boundary shall be determined by use of the scale appearing on the map.
4. Where the watershed district boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
5. Where other uncertainty exists, the Planning Director shall interpret the Davidson Watershed Map to determine the location of such boundaries. This decision may be appealed to the Board of Adjustment.

**Commented [LL12]: [MC]** Clarifies the procedure for when the watershed boundary lies 25 feet or less from any parallel lot line.

**Commented [LL13]: [MC]** Clarifies the procedure for when other uncertainty exists.

#### **17.6 Exceptions to Applicability**

Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor restrict any provisions of the Davidson Planning Ordinance; however, the adoption of the Watershed Protection Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect within the planning jurisdiction of the Town of Davidson (as depicted in the Davidson Planning Areas map) at the time of the adoption of the ordinance that may be construed to impair or reduce the effectiveness of this ordinance or to conflict with any of its provisions.

It is not intended that these regulations interfere with any easement, covenant or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

Nonconformities shall follow the requirements of Section 12 of the Davidson Planning Ordinance.

**Commented [LL14]: [PBOC]** This statement was moved to the start of 17.6 since it applies to the entire section rather than just 17.6.1-2.

### **17.6.1 Expansions to Existing Development**

Existing development, as defined in this ordinance, is not subject to the requirements of this section. Expansions to structures classified as existing development on any lot other than a lot containing a single-family residence as the principle use must meet the requirements of this ordinance; however, the built-upon area of existing development is not required to be included in the impervious calculations (i.e. the maximum built-upon area). If structures classified as existing development are removed, the parcel's built-upon-area must comply with the standards of this ordinance.

**Commented [LL15]: [PBOC]** The term "density calculations" was replaced with "impervious calculations" because the Town reviews BUA requirements based on percentage of impervious coverage and not a maximum number of units per acre measure.

### **17.6.2 Existing Lots of Record**

An existing lot of record owned by an individual prior to the effective date of these regulations, regardless of whether or not a vested right has been established, may be developed or used for single-family residential purposes without being subject to these regulations. However, this shall not be applicable to multiple contiguous lots under single ownership that do not meet the requirements of the underlying planning area.

**Commented [LL16]: [MC]** This sentence was added to clarify that existing BUA that is removed from a site is no longer grandfathered into overall BUA calculations. This is consistent with how the ordinance is administered currently.

### **17.6.3 Nonconforming Situations**

### **17.6.4 Existing Development**

**Commented [LL17]: [PBOC]** The term "pre-existing lot" was replaced with "existing lot of record" for consistency with defined terms in the ordinance.

**Commented [LL18]: [MC]** Remove-this section is not applicable and conflicts with DPO Section 12 Nonconformities

**Commented [LL19]: [MC]** Remove-this section is a repeat of Section 17.6.1

## **17.7 Watershed Subareas Established**

The purpose of this section is to list and describe the various watershed subareas herein created. The following subareas shall be in place and are depicted on the Davidson Watershed Map:

- a) Critical Area: The Critical Area is defined as the land area which begins at the normal pool elevation of Lake Norman and extends one-half mile inland or to the ridgeline, whichever is closest, as shown more specifically on the Town of Davidson watershed map.
- b) Protected Area: There is no Lake Norman Protected Area located within the jurisdiction of the Town of Davidson.

**Commented [LL20]: [MC]** Clarifies that there is no Protected Area within the town (NOTE: Protected Areas are geographically determined and because all Davidson's land is so close to the lake it's all considered Critical Area).

### **17.7.1 Critical Area (CA)**

The intent of these regulations is to require higher standards in the Critical Area of the Lake Norman Watershed because of the greater risk of degradation of the drinking water supply from pollution. All uses permitted in the Critical Area are subject to the standards of the both the watershed subarea and underlying zoning district. In every case the more restrictive standard controls.

**Commented [LL21]: [MC]** Clarifies the intent of the watershed regulations.

#### **17.7.1.1 Allowed Uses (Only if Permitted in the Underlying Planning Area)**

- A. Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps. Animal operations with greater than 100 animal units shall employ Best Management Practices by July 1, 1994 as recommended by the Soil and Water Conservation Commission. (Note: The Soil and Water

Conservation Commission is the designated management agency responsible for implementing the provisions of Section 16 relating to agricultural activities.)

- B. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-0209).
- C. Residential development.
- D. Non-residential development (i.e. commercial, institutional, or industrial development) excluding: (i) the storage of toxic and hazardous materials unless a spill containment plan is implemented; (ii) landfills; and (iii) sites for land application of sludge/residuals or petroleum contaminated soils.

### **17.7.1.2 Built-Up Area Limits**

All development must comply with the built-upon area limits of either the Low Density or High Density Option as described below. When calculating the built-upon area, total project area shall include total contiguous acreage of the adjacent or adjoining tract(s) on which the project is to be developed. Note: For the purposes of the watershed ordinance, the terms Low and High Density describe a site's built-upon area (i.e. land coverage); they do not describe units per acre.

- A. **Low Density Option:** Development shall not exceed a built-upon area of 24 percent on a project by project basis.
- B. **High Density Option:** Development shall not exceed a built-upon area of 50 percent on a project-by-project basis. Note: Control structures must be used to treat storm water as explained in Section 17.7.3.
- C. **Reserve Built-Up Area:** Development or redevelopment of a Detached House, Attached House, or Townhome approved after (effective date of ordinance revision) shall reserve, at minimum, 1% of the lot area but not less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant. Such reserve built-upon area shall be treated as part of the built-upon area for the purposes of calculating the 24 percent and 50 percent maximum BUA set forth in A. and B. of this Section 17.1.1.2.

**Commented [LL22]: [MC]** Language referencing a max. two dwelling units per acre for residential development was removed. We do not differentiate residential development from other development types in regards to maximum BUA requirements.

A Reserve Built-Up Area requirement for residential development was added to allow for homeowners to build additional BUA in the future and still be within the maximum 24% BUA (i.e. patios).

**Commented [LL23]: [PBOC]** Including this language clarifies that only the actual project site is used to determine BUA limits. This prevents projects with multiple, non-contiguous parcels from using the BUA from nearby but undeveloped parcels to build more on the project site parcel.

**Commented [LL24]: [PBOC]** This sentence clarifies that these terms refer to the amount of hardscape on a site (i.e. land coverage) and not units/acre.

### **17.7.2 Cluster Development**

**Commented [LL25]: [MC]** Remove—Cluster Developments have not been applied in Davidson.

### **17.7.3 High Density Option**

#### **A. General Requirements**

The Planning Director may approve a project using the high-density option consistent with the following standards:

1. **Critical Area:** Engineered storm water controls shall be used to control runoff from the first inch of rainfall for development which contains a built-upon area of greater than 24 percent to 50 percent on a project-by-project basis. Individual single-family detached houses are not eligible to utilize engineered stormwater controls to meet this section's requirements.
2. **Protected Area:** There is no Lake Norman Protected Area located within the jurisdiction of the Town of Davidson.

**Commented [LL26]: [MC]** Clarifies that Davidson has no Protected Area within our jurisdiction. See comment for 17.7 for further explanation.

**Commented [LL27]: [MC]** The county does not allow these property types to install stormwater facilities for credit towards the requirements because they would require legal agreements with Meck. County for their design, operations, inspections and maintenance.

#### **B. Inspection Fees**

The Town reserves the right to conduct inspections in accordance with this ordinance. A fee in accordance with the fee schedule approved by the Planning Director shall be required to be paid by the owning entity prior to each inspection being conducted.

#### **C. Operation and Maintenance Plan**

1. Any stormwater control structure approved by the Planning Director shall be prepared by a North Carolina registered professional engineer or landscape architect (to the extent that the General Statutes allow) and predicated on the developer and the Town entering into a binding operation and maintenance plan. The plan shall require the owning entity of the structure(s) to maintain, repair, and, if necessary, reconstruct said structure(s) in accordance with the operation and maintenance plan provided by the developer to the Town. The plan must be approved by the Planning Director prior to, or in conjunction with, approval of the high density option for said project.
2. A separate plan must be provided by the developer for each stormwater control structure, containing, at a minimum, what operation and maintenance actions are needed and will be undertaken, what specific quantitative criteria will be used for determining when those actions are to be taken, and who is responsible for such actions. The Plan shall clearly indicate what steps will be taken for restoring a stormwater control structure to design specifications if a failure occurs.
3. Amendments to the plan and/or specifications of the stormwater control structure(s) may only be approved by the Planning Director. Proposed changes shall be prepared by a North Carolina registered professional engineer or landscape architect, (to the extent that the General Statutes allow) and submitted to the Planning Director for approval. Such amendments shall be accompanied by all information and fees prescribed by this ordinance.
4. If the Planning Director finds that the plan, once approved, is inadequate for any reason, the Planning Director shall notify the owning entity of any changes mandated by the Town and a time-frame in which changes to the plan shall be made.

#### **D. Post of Financial Securities**

All new stormwater control structures approved employing the high density option shall be conditioned on the posting of adequate financial assurances for the purpose of constructing, maintaining, repairing or reconstructing said devices.

1. A surety bond or equivalent security shall be posted in accordance with Davidson Planning Ordinance requirements (6.11 Improvement Guarantees).
2. Once the stormwater control structure(s) has been constructed and inspected in the manner provided for in this ordinance, and approved by the Planning Director, the Planning Director may authorize the release of up to 75 percent of the surety bond or other equivalent security outlined above. The remaining portion of the surety bond or equivalent security may be released to the owning entity in accordance with this ordinance.
3. Prior to said release, the applicant shall be required to deposit with the Town either cash or a similar instrument approved by the Planning Director in an amount equal to 15 percent of

**Commented [LL28]: [PBOC]** This text was added to reference existing Town of Davidson requirements, ensuring that the bond fees paid are consistent with established processes.

the total construction cost or 100 percent of the cost of maintaining, repairing, or reconstructing said structure(s) over a 20-year period, whichever is greater. The estimated cost of maintaining the stormwater control structure(s) shall be consistent with the approved Operation and Maintenance Plan provided by the applicant as outlined in this section.

**E. Default**

1. Upon default of the applicant to complete the stormwater control structure(s) as detailed in the surety bond or other equivalent security, the Planning Director may obtain and use all or any portion of the funds necessary to complete the improvements based on actual construction costs. The Planning Director shall return any funds not spent in completing the improvements to the owning entity.
2. Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the approved Operations and Maintenance Plan, the Planning Director shall obtain and use any portion of the cash security outlined in Section 17.7.3.E to make necessary improvements based on an engineering estimate provided by the Town.

**F. Vegetation and Grounds Management**

1. Landscaping and grounds management shall be the responsibility of the owning entity of said structure(s). Vegetation shall not be established or allowed to mature to the extent that the integrity of the structure(s) is in any way threatened or diminished, or to the extent of interfering with any easement or access to the structure.
2. Except for routine landscaping and grounds maintenance, the owning entity shall notify the Planning Director prior to any repair or reconstruction of the structure. All improvements shall be consistent with the approved plan and specifications for that structure. After notification by the owning entity, the Town shall inspect the completed improvements and inform the owning entity of any required additions, changes, or modifications needed to complete said improvements. A fee, in accordance with a fee schedule adopted by the Planning Director shall be charged to the owning entity for any inspections (and re-inspections). A time period for making such changes shall also be stipulated by the Town.

**G. Inspections**

**1. Inspections of Newly Constructed Stormwater Structures**

All new stormwater control structures shall be inspected by the Planning Director or his/her designee after the owning entity notifies the Planning Director that all construction has been completed. At this inspection the owning entity shall provide:

- a. The signed deed, related easements, and survey plat for the structure in a manner suitable for filing with the Register of Deeds, if ownership of the stormwater control structure(s) is to be transferred to another person, firm or entity. (This requirement will be waived for any repair work when such deed has previously been filed.)
- b. A certification by a professional engineer or landscape architect (to the extent allowable by the North Carolina General Statutes) stating that the stormwater

control structure is complete and consistent with the approved plan and all specifications previously stipulated by the Town.

c. The Planning Director shall review the materials submitted by the owning entity along with the Town's inspection for approval. If the Planning Director approves the inspection report and accepts the certification, deed, and easements, the Planning Director shall file said deed and easements with the Register of Deeds. Release of up to 75 percent of the surety bond or other equivalent security called for in Section 17.7.3.C shall be made in a manner as prescribed in this ordinance.

d. If deficiencies are found as a result of the inspection, the Planning Director shall direct the owning entity to make necessary improvements. Re-inspections will be made thereafter. No release of any funds shall be made by the Town until all deficiencies are properly addressed to the Town's satisfaction.

e. No sooner than one year after approval of the stormwater control structure(s) by the Town, the owning entity may petition the Planning Director to release the remaining value of the surety bond or equivalent security called for in Section 17.7.3.C. Upon receipt of said petition, the Town shall inspect the stormwater control structure(s) to determine whether the structure(s) is performing as designed and intended. Once the inspection is made, the Planning Director shall present the inspection report and recommendations to the Board of Commissioners.

f. An occupancy permit shall not be issued for any building within the permitted development until the Planning Director has approved the stormwater control structure(s) in a manner as herein prescribed.

## **2. Annual Inspection of Stormwater Structures**

a. All stormwater control structures shall be inspected by the Town or their designated agents on an annual basis to determine whether the structures are performing as designed and intended. Records of inspection shall be maintained as approved by the Planning Director. Annual inspections shall begin one year after approval of the stormwater control structure(s) by the Planning Director. A fee, in accordance with a fee schedule adopted by the Planning Director, may be charged to the owning entity for annual inspections (and re-inspections). A copy of each inspection report shall be filed with the Planning Director.

b. In the event the Town's report indicates the need for corrective action or improvements, the Planning Director shall notify the owning entity of the needed improvements and the date by which such improvements are to be completed. All improvements shall be consistent with the adopted Operation and Maintenance plan and specifications. Once such improvements are made, the owning entity shall forthwith contact the Planning Director and ask that an inspection be made.

## **H. Stormwater Control Structure Specification**

**Commented [LL29]: [MC]** Section revised based on county stormwater control requirements (Charlotte-Mecklenburg BMP Design Manual).

1. All stormwater control structures shall be designed by either a North Carolina registered professional engineer or a landscape architect (to the extent that the General Statutes allow).
2. Stormwater control structures shall treat the runoff generated from the first inch of rainfall.
3. Stormwater control structures used to meet these requirements shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids.
4. Stormwater control structures shall be installed to control the volume leaving the project site at post-development for the 1-year, 24-hour storm. Runoff volume drawdown time shall be a minimum of 24 hours, but not more than 120 hours.
5. Stormwater control structures shall be designed in accordance with the Charlotte-Mecklenburg BMP Design Manual.
6. In addition to the required vegetative filters, all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within 30 days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the Operation and Maintenance plan described in this ordinance.
7. A description of the area containing the stormwater control structure(s) shall be prepared and recorded as a separate deed with the Register of Deeds along with any easements necessary for general access to the stormwater control structure(s) should ownership (and maintenance) of the stormwater control structure(s) be transferred to another person, firm or entity. The deeded area shall include the detention pond, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs, and reconstruction.

**I. Planning Director Approval Process on High Density Application**

The Planning Director shall either approve an application for the high density option, approve the application with fair and reasonable conditions, or disapprove such an application based upon the applicable criteria contained in this Ordinance.

1. If the Planning Director approves the application, such approval shall be predicated on: a) the owning entity and the Town entering into a binding Operation and Maintenance plan as indicated in Section 17.7.3.B and b) the posting of a surety bond or other equivalent security as provided in Section 17.7.3.C. Such approval shall be indicated on the application and on both copies of the plans submitted with the application. A copy of the approved application and one copy of the plans shall be returned to the applicant.
2. If the Planning Director disapproves the application, the reasons for such action shall be sent by personal delivery, electronic mail, or first class mail by the Planning Director to the applicant within five working days of the disapproval. The applicant may make revisions or changes and submit a revised plan. The application fee may be waived if the Planning Director determines the changes are not substantial.

#### **17.7.4 Buffer Areas Required**

##### **A. Vegetative Buffers**

Developments must place or maintain undisturbed vegetative buffers, except as specifically provided in this section, along the shoreline of Lake Norman measured horizontally by a licensed land surveyor from the full pond elevation (760' contour) and along each side of all perennial streams (as indicated on the most up-to-date version of a U.S.G.S. 1:24,000-7.5 minute map or as otherwise determined by local government studies) measured from the top of the bank on each side on the stream. Minimum buffer widths are 40 feet if the low density option is used or 100 feet if the high density option is used.

**Commented [LL30]: [MC]** Clarifies how buffers are measured and what actions may be undertaken within buffer areas with Planning Director approval.

The following actions may not be undertaken without Planning Director approval:

- Restoration: Desirable artificial stream bank or shoreline stabilization.
- Removal: The removal of dead or diseased trees. Removal of underbrush is not permitted in the buffer except at approved pathways and locations.
- Tree Limbing: At approved locations, trees may be limbed up to half the distance of their height, not to exceed 15 feet above grade.

##### **B. Development in the Buffer**

No new development is allowed in the vegetative buffer area except for public projects such as road crossings and greenways, where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

#### **17.7.5 Public Health Regulations**

No activity, situation, structure or land use shall be allowed within a WS district which poses a threat to water quality and the public health, safety, and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash, or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

The Planning Director shall monitor land use activities within all WS districts to identify situations that may pose a threat to water quality. The Planning Director shall report all findings to the proper agency to handle the threat and/or the Board of Commissioners. The Planning Director may consult with any public agency or official and request recommendations. Where the Planning Director finds a threat to water quality and the public health, safety, and welfare, the Planning Director shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation as herein authorized.

#### **17.7.6 Amendments to Regulations Pertaining to a WS District**

Under no circumstances shall the Board of Commissioners adopt any amendment, addition, or deletion that would cause these regulations to violate the watershed protection rules as adopted by the NC Environmental Management Commission. Any amendment to the boundaries of any particular Water

Supply Watershed District shall be referred to the NC Division of Environmental Management, NC Division of Environmental Health, and the NC Division of Community Assistance for their review prior to adoption. Otherwise, amendments to the regulations contained in Section 17 shall follow procedures prescribed in Section 14.

#### **17.7.7 Variances**

The following sub-sections describe the process for pursuing a variance within the Lake Norman Critical Watershed. Approval of both minor and major variance requests as defined in this ordinance and subject to the regulations contained herein may only be granted upon a 4/5 affirmative vote of the Board of Adjustment.

**Commented [LL31]: [PBOC]** This section was largely reorganized to provide clarification on the process for Board of Adjustment hearings for both major and minor watershed variance requests.

##### **A. Minor Variance:**

1. **Application Form & Fee:** An application for a minor variance shall be on a form prescribed by the Town and shall be accompanied by a fee, the amount of which is in accordance with a fee schedule established by the Town. An application will not be considered complete unless it contains all information required and is accompanied by said fee. The application shall be accompanied by a map clearly identifying the subject property and all contiguous pieces of properties (including all properties traversed and/or separated by a road, stream, right-of-way or any similar natural or man-made configuration). In addition, a list of names and addresses of the owners of said properties, from the most recent official tax records, shall be provided by the applicant. All applications shall be submitted to the Planning Director.
2. **Application Completeness Determined:** Once having received an application, the Planning Director shall have five working days to determine its completeness. If he determines that the application is not complete, he shall serve a written notice on the petitioner specifying the application's deficiencies. The Planning Director shall take no further action on the application until the deficiencies are remedied. If the Planning Director fails to so notify the petitioner, the application shall be deemed complete. Once the application is deemed complete, the Board of Adjustment shall hold a public hearing on the application.
3. **Scheduling the Board of Adjustment Meeting:** The Planning Director, having determined that an application is complete, shall place the application on the agenda of the next Board of Adjustment regular or special meeting occurring at least fifteen days thereafter.
4. **Public Hearing Notification:** Notification of said Board of Adjustment public hearing shall be as follows:
  - a. **Preparation/Content:** Notices shall include a description of the minor variance request; indicate the nature of the public hearing; and, list and the date, time, and place at which the hearing is to occur. Notices shall be prepared by the applicant using text provided by the Town.
  - b. **Recipients:** Notices shall be sent by first class mail to the following:
    - i. Local Governments: The Clerk of all municipal and county governments having jurisdiction within the same watershed; and
    - ii. Major Water Consumers: Any major consumer of water whose point of intake lies within the same watershed.
  - c. **Mailing/Date:** Notices shall be sent by the Town by first class mail at least 10 days prior to the public hearing.

**Commented [LL32]: [PBOC]** This section was added to clarify the content requirements of public notification letters for Board of Adjustment hearings

d. **Comments Received:** Any comments received from notified local governments or major water consumers regarding a minor variance request shall become part of the record of proceedings.

5. **Public Hearing:** The Board of Adjustment shall conduct the public hearing in a quasi-judicial manner. All persons giving evidence shall be sworn in by the board Chair. In all matters coming before the Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application. The Board of Adjustment shall base their recommendation on the testimony given at the public hearing and on any comments received from notified local governments or major water consumers regarding the major variance request. The testimony, comments and evidence shall become part of the record of proceedings.

6. **Board of Adjustment Recommendation:** The Board of Adjustment shall make a recommendation on a minor variance involving property located within a Water Supply Watershed Overlay District no later than 30 days from the close of the public hearing. The Board of Adjustment may recommend a variance only after each of the findings found in Section 14 of the Planning Ordinance are found in the affirmative. Recommendations shall be in one of the following forms:

- a. Recommend approval of the variance if the findings of fact in Section 14 are found in the affirmative; or
- b. Recommend approval of the variance with fair and reasonable conditions attached if the findings of fact in Section 14 are found in the affirmative; or
- c. Recommend denial of the variance if at least one finding of fact in Section 14 is found in the negative.

The concurring vote of four-fifths (4/5) of the voting members of the Board of Adjustment shall be necessary to make a recommendation for approval of a minor variance application involving property located within a Watershed Protection Overlay District.

7. **Record of Decision:** If the Board of Adjustment makes a favorable recommendation on a major variance application (with or without additional conditions or safeguard) or fails to make any recommendation on the major variance application within the specified time period, the Planning Director shall prepare a record of the public hearing which shall include the following:

- a. The variance application;
- b. Evidence that proper notification of the public hearing has been made;
- c. A summary of evidence presented, including comments submitted from other local governments or major water consumers within the same watershed jurisdiction;
- d. Proposed findings and exceptions;
- e. The Board of Adjustment's recommendation, if one is submitted within the 30 day time period, including all conditions proposed to be added to the permit.

A copy of the record of decision shall be filed with the Board of Adjustment case materials and one copy presented to the applicant. The approval, with any additional conditions or safeguards, shall become part of any zoning permit issued by the Planning Director.

## **B. Major Variance:**

1. **Application Form & Fee:** An application for a major variance shall be on a form prescribed by the Town and shall be accompanied by a fee, the amount of which is in accordance with a fee schedule established by the Town. An application will not be considered complete unless it contains all information required and is accompanied by said fee. The application shall be accompanied by a map clearly identifying the subject property and all contiguous pieces of properties (including all properties traversed and/or separated by a road, stream, right-of-way or any similar natural or man-made configuration). In addition, a list of names and addresses of the owners of said properties, from the most recent official tax records, shall be provided by the applicant. All applications shall be submitted to the Planning Director.
2. **Application Completeness Determined:** Once having received an application, the Planning Director shall have five working days to determine its completeness. If he determines that the application is not complete, he shall serve a written notice on the petitioner specifying the application's deficiencies. The Planning Director shall take no further action on the application until the deficiencies are remedied. If the Planning Director fails to so notify the petitioner, the application shall be deemed complete. Once the application is deemed complete, the Board of Adjustment shall hold a public hearing on the application.
3. **Scheduling the Board of Adjustment Meeting:** The Planning Director, having determined that an application is complete, shall place the application on the agenda of the next Board of Adjustment regular or special meeting occurring at least fifteen days thereafter.
4. **Public Hearing Notification:** Notification of said Board of Adjustment public hearing shall be as follows:
  - a. **Preparation/Content:** Notices shall include a description of the major variance request; indicate the nature of the public hearing; and, list and the date, time, and place at which the hearing is to occur. Notices shall be prepared by the applicant using text provided by the Town.
  - b. **Recipients:** Notices shall be sent by first class mail to the following:
    - i. **Nearby Property Owners:** All adjacent and abutting property owners.
    - ii. **Local Governments:** The Clerk of all municipal and county governments having jurisdiction within the same watershed; and
    - iii. **Major Water Consumers:** Any major consumer of water whose point of intake lies within the same watershed.
  - c. **Mailing/Date:** Notices shall be sent by the Town by first class mail at least 10 days prior to the public hearing.
  - d. **Comments Received:** Any comments received from notified local governments or major water consumers regarding a minor variance request shall become part of the record of proceedings.
5. **Public Hearing:** The Board of Adjustment shall conduct the public hearing in a quasi-judicial manner. All persons giving evidence shall be sworn in by the board Chair. In all matters coming before the Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application. The Board of Adjustment shall base their recommendation on the testimony given at the public hearing and on any comments received from notified local governments or major water consumers regarding the major variance request. The testimony, comments and evidence shall become part of the record of proceedings.

**Commented [LL33]: [PBOC]** This section was added to clarify the content requirements of public notification letters for Board of Adjustment hearings

6. Board of Adjustment Recommendation: The Board of Adjustment shall make a recommendation on a major variance involving property located within a Water Supply Watershed Overlay District no later than 30 days from the close of the public hearing. The Board of Adjustment may recommend a variance only after each of the findings found in Section 14 of the Planning Ordinance are found in the affirmative. Recommendations shall be in one of the following forms:
- Recommend approval of the variance if the findings of fact in Section 14 are found in the affirmative; or
  - Recommend approval of the variance with fair and reasonable conditions attached if the findings of fact in Section 14 are found in the affirmative; or
  - Recommend denial of the variance if at least one finding of fact in Section 14 is found in the negative.

The concurring vote of four-fifths (4/5) of the voting members of the Board of Adjustment shall be necessary to make a recommendation for approval of a minor variance application involving property located within a Watershed Protection Overlay District.

7. Preliminary Record of Decision: If the Board of Adjustment makes a favorable recommendation on a major variance application (with or without additional conditions or safeguard) or fails to make any recommendation on the major variance application within the specified time period, the Planning Director shall prepare a record of the public hearing which shall include the following:
- The variance application;
  - Evidence that proper notification of the public hearing has been made;
  - A summary of evidence presented, including comments submitted from other local governments or major water consumers within the same watershed jurisdiction;
  - Proposed findings and exceptions;
  - The Board of Adjustment's recommendation, if one is submitted within the 30 day time period, including all conditions proposed to be added to the permit.

If the Board of Adjustment recommends that an application for a major variance involving property within a Watershed Protection Overlay District should be denied, then the application shall not be forwarded to the Environmental Management Commission, and shall be considered denied by the Board of Adjustment. The Planning Director shall send written notice of the denial by personal delivery, electronic mail, or first class mail to the applicant within five working days of the Board's decision.

8. Environmental Management Commission Decision: The preliminary record shall be sent to the Environmental Management Commission for its review. If the Environmental Management Commission concludes from the preliminary record that the variance qualifies as a major variance, the Commission shall make a final decision on the request and mail it to the Planning Director.
- Approval: If the Environmental Management Commission upholds the Board of Adjustment's recommendation for approval of a major variance, the Planning Director shall forward the Environmental Management Commission's decision to the applicant by personal delivery, electronic mail, or first class mail within five working days of receipt of the decision from the Commission. The approval, with any additional conditions or safeguards, shall become part of any zoning permit issued by the Planning

Director. A copy of the record of decision shall be filed with the Board of Adjustment case materials.

- b. **Denial:** If the Environmental Management Commission overturns the Board of Adjustment's recommendation for approval of a major variance, the Planning Director shall send the decision by personal delivery, electronic mail, or first class mail to the applicant within five working days of receipt of the decision from the Environmental Management Commission. The materials must state that the major variance request was denied and list the reasons for such denial. A copy of the record of decision shall be filed with the Board of Adjustment case materials.

### **17.7.8 Enforcement**

- A. These regulations shall be enforced by the Planning Director. In addition to other duties, the Planning Director shall keep records regarding any expansions approved to structures classified as existing development, so that the maximum coverage of all new expansions do not exceed that allowed in this ordinance.
- B. The Planning Director shall maintain a file on all applications for minor and major variances. A copy of information pertinent to any minor variance application request (including minutes of the hearing, findings made by the Board of Adjustment, actions taken by the Board of Adjustment, names and addresses of all persons giving evidence at the public hearing) shall be submitted annually during the last week of December to the Division of Environmental Management, Supervisor of the Classification and Standards Group.
- C. The penalties and fines described in Section 14 and Section 15 are applicable to this section.

### **17.8 BUILT-UPON AREA AVERAGING (DENSITY AVERAGING)**

Built-Upon Area (BUA) Averaging allows parcels located within the Lake Norman Critical Watershed to obtain additional development rights through an increase in a site's built-upon-area (BUA) by averaging the total BUA of the developing lot (i.e. "receiving lot") with the total BUA of an undeveloped/less developed lot within the same watershed and jurisdiction ("donating lot"). This is accomplished by transferring undeveloped area on a donating lot to a receiving lot via a BUA Averaging Certificate, which includes a non-revocable easement, metes and bounds description, and recorded plat of the area(s) to remain undisturbed. The BUA Averaging Certificate requires approval by the Watershed Review Board, a sub-set of the Board of Adjustment; for the purposes of this ordinance, the Board of Adjustment may act as the Watershed Review Board.

**Commented [LL34]: [PBOC]** This entire section was reworked/reorganized to clarify the purpose, eligibility, process, and documentation requirements for Built-Upon Area Averaging.

#### **17.8.1 PURPOSE & ELIGIBILITY, PROCESS, DOCUMENTATION**

- A. **Purpose:** The purpose of this provision is to preserve open space in the more sensitive areas of the watershed, and to ensure orderly and planned development throughout the watershed.
- B. **Uses:** The participating parcels may include or be developed for residential or non-residential purposes under the Individual Building and Master Plan processes. To be eligible to pursue the

averaging process, the parent parcel must first have received approval through the required development approval process.

**Eligible uses** permitted to utilize this program include but are not limited to: Residential uses intended to meet an identified housing need (i.e. less than 120 percent of AMI), or Civic/Educational/Institutional uses as defined by the Davidson Planning Ordinance. Additional uses will be considered by the Board of Adjustment on a case by case basis.

Note: Individual parcels whose principal use is or will be single-family residential are not eligible to be considered as receiving parcels if the total built-upon area (BUA) would exceed 24 percent; this includes uses within the Single-Family Detached House building type. This does not apply to parcels owned and managed by non-profit entities whose mission is to provide affordable housing.

**Commented [LL35]: [PBOC]** This language was added as a result of discussions with the Planning Board, PBOC, and Board of Commissioners, each of which expressed a desire to limit the types of uses that may pursue BUA averaging. The proposed eligible uses include residential uses intended to meet an identified housing need and civic/educational/institutional uses.

**C. Requirements:** The following requirements must be met by all parcels:

1. **Ownership:** Only the owner(s) of the participating parcels may submit a Density Averaging Certificate application. Areas subject to easements, covenants, and/or development restrictions not legally controlled by the owner may not be included as donated parcel area; this includes right-of-way area.
2. **Pre-Existing Variance:** No parcel for which a watershed variance has been granted, or would be required, may be included as a donating or receiving parcel.
3. **Location:** Participating parcels shall be located in the same water supply watershed and preferably in the same drainage area of the watershed. All parcels must be located within the Town of Davidson's planning jurisdiction.
4. **Transferability:** A property in a more restricted watershed area shall not acquire BUA from a property in a less restricted watershed area.
5. **Overall Area:** The cumulative BUA of all participating parcels shall not exceed the BUA that would be allowed if the parcels were developed separately.
6. **Buffers:** On all participating parcels buffers shall at least meet the applicable, minimum ordinance requirements for parcels located in water supply watersheds.
7. **Preservation:** The donated area shall remain in an undisturbed vegetated or natural state. Previously developed or graded lots may be used as donating parcels so long as the donated area of the lot is revegetated according to Davidson Planning Ordinance requirements. The donated area shall be irrevocable unless amended per the requirements of this ordinance prior to the undertaking of any development activity on the participating parcels.
8. **Required Features:** When the donated area of a parcel abuts street frontage or right-of-way, the preserved area shall feature park or public space amenities as determined by the Planning Director.
9. **Stormwater Design:** All participating parcels must meet the applicable buffer and engineered stormwater controls as outlined in the ordinance. Parcels shall be controlled by

on-site facilities in accordance with the criteria specified in the Davidson Water Quality Design Manual and the Davidson Planning Ordinance for high-density development. Development permitted under BUA averaging and meeting applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

10. **Design:** Built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.

### **17.8.2 PROCESS**

A Built-Upon Area (BUA) Averaging Certificate shall be obtained from the Watershed Review Board (Board of Adjustment) to ensure that all participating parcels considered together meet the standards of the ordinance and that potential owners have a record of how the watershed regulations were applied to each parcel.

- A. **Applicability:** All participating parcels may be processed under a single BUA Averaging Certificate, and will be considered as one development for the purpose of counting total built-upon-area. One BUA Averaging Certificate will be issued per application. Unless otherwise specified, the application shall follow the rules and procedures specified by the Board of Adjustment and Appeals & Variances sections of this ordinance.
- B. **Process:** The following steps outline the typical process for obtaining a BUA Averaging Certificate. Note: Application preparation is considered an iterative process; an application must be deemed complete by the Planning Director and all revisions addressed in order for a Board of Adjustment hearing to be scheduled. Incomplete, improperly formatted, or documentation errors may require revision prior to acceptance by the Planning Director.
  1. **Lot Identification:** The applicant shall identify participating lots, prepare draft plats, and complete a BUA Averaging Form.
  2. **Pre-Application Meeting:** The applicant must set up an appointment with the Planning Director. At the initial meeting the Planning Director will explain the BUA averaging process and review with the applicant the appropriate ordinances, documents, and plans relevant to the project. Additional meetings may be required prior to application submission, as deemed necessary by the Planning Director.
  3. **Submit Application & Fee:** The applicant must submit the following documents (see the Documentation section for further information):
    - Town of Davidson Application and Application Fee
    - Surveys of Existing Conditions
    - Existing Plats and Deeds
    - Metes & Bounds Description(s)
    - Final Plats (Drafts)
    - Existing Development Materials (as applicable)

- Approved Development Plan
  - Public Notice Materials
4. Application Review: Staff will review the application and determine whether the materials constitute a complete submittal. Application revisions, and additional meetings, may be required by the Planning Director prior to the application being deemed complete. Once the application is determined to satisfy the requirements, a Board of Adjustment hearing may be scheduled.
  5. Board of Adjustment Hearing: A hearing shall be scheduled no later than 45 days after a complete application has been accepted by the Planning Director.
  6. Board of Adjustment Decision: The Board of Adjustment shall issue a decision within 31 days of the close of the public hearing. The board shall make written findings supported by appropriate calculations and documentation that the participating parcels as a whole conform to the intent and requirements of this Article and Section, and that the proposed agreement assures protection of the preserved area. The request must be consistent with adopted plans and/or policies, approved development plans, Davidson Planning Ordinance requirements, and the Board of Adjustment's determination based on these resources that the proposal achieves an identified public interest.
  7. Certificate Issued: If approved, the Town of Davidson will issue a BUA Averaging Certificate to the applicant. The BUA Averaging Certificate shall constitute the Board of Adjustment decision, staff approval letter, and application documentation.
  8. EPM Submission: If approved by the Board of Adjustment, the applicant must submit the following documents to Mecklenburg County via the online EPM system:
    - Mecklenburg County Application
    - Deeds
    - Final Plats
  9. Plat Approval/Signature: Once approved in EPM, the applicant must submit a mylar copy of each plat to the Town of Davidson, Mecklenburg County LUESA, and the Register of Deeds for signature. A digital copy of each plat included in the application and filed with the Register of Deeds must be provided to the Town of Davidson for filing.
  10. NC Department of Environmental Quality Submission: Upon issuance of the BUA Averaging Certificate and signed plat, one copy must be sent to the NC Department of Environmental Quality (DEQ). Included with the BUA Averaging Certificate will be the following:
    - Site Plans;
    - Registered plats for both properties;
    - Description of both properties;
    - Documentation reflecting the development restrictions all participating parcels, including restrictions for all donated areas.

**Commented [LL36]: [PBOC]** This text clarifies the Board of Adjustment's ability to deny a proposal based on adopted plans and policies.

11. **Amendment:** If a certificate is approved by the Board of Adjustment, no change in the development proposal authorized for participating parcels shall be made unless the certificate is amended by the Board of Adjustment.

### **17.8.3 DOCUMENTATION REQUIREMENTS**

The following documentation shall be provided to constitute a complete built-upon area (BUA) averaging application:

**A. Administrative:**

1. **Town of Davidson Application:** A completed BUA Averaging Form, including:
  - a. **Description:** A description of all participating properties' and their existing conditions.
  - b. **Chart:** A chart summarizing the existing and proposed BUA for all participating properties.
2. **Fee:** A remitted fee of \$150 High-Density Residential; \$300 Commercial.

**B. Surveys:** Surveys of all participating parcels showing current BUA and current maximum BUA allowances, along with easements and/or development restrictions. The surveys must be performed by a licensed surveyor.

**C. Existing Plats & Deeds:** Copies of the existing, registered plats and deeds for all participating parcels.

**D. Metes & Bounds Description (Donating Parcel):** A metes and bounds description of the undisturbed natural area intended for recordation. The description must specify any limits on use and shall be recorded on the plat, in homeowner covenants (if applicable), and on the donating parcel's individual deed and shall be irrevocable unless amended per the ordinance.

**E. Final Plats (Draft):** Revised plats for all participating parcels. The plats must show all components as required in the ordinance, in a format approved by staff. Additionally, the plats must include:

1. **Purpose Statement:** Recommended text is as follows:

Donor Parcels: *The purpose of this plat is to allocate built-upon-area from this parcel to another parcel of land located within the same watershed. The remaining built-upon-area for this lot is XXXX. The donated [lot/area] is to remain in an undisturbed vegetated state in perpetuity.*

Receiving Parcels: *The purpose of this plat is to receive on this parcel built-upon-area from another parcel of land located within the same watershed. The resulting built-upon-area for this lot is XXXX.*

2. **Site Data:** Tax Parcel ID#s; Physical Addresses; Planning Area Designation (i.e. Zoning); Acreage.
3. **Metes/Bounds Description:** Metes/bounds description(s) of designated undisturbed natural area(s).
4. **Designation in Perpetuity:** A note that the natural area will remain undisturbed in perpetuity.
5. **BUA Values:** Existing and proposed maximum BUA allowances for all participating parcels.
6. **Watershed Designation:** The Watershed Overlay District for both parcels.
7. **Buffer Delineation:** Show any S.W.I.M., watershed, and post-construction buffers.
8. **Floodplain/Community Encroachment Area:** Show the line(s) associated with any base flood levels potentially affecting the site.

9. **BUA Averaging Certification:** In addition to certifications required by the ordinance, please include the following certifications on each plat:

*Density Averaging/Built-Upon-Area Transfer Plat*

*This plat represents a transfer of built-upon-area through preservation of a dedicated, undisturbed natural area for properties within the jurisdiction of the Town of Davidson. The resulting action may or may not create tracts of land that are compliant with the Davidson Planning Ordinance (DPO). This parcel is subject to the DPO built-upon area averaging standards: Any change to the development proposal affecting the approved built-upon-area allowance requires amendment to the existing Built-Upon Area Averaging Certificate and approval by the Davidson Board of Adjustment. The Planning Director reserves the right to make periodic site inspections to ensure compliance with these conditions.*

*Date*

*Planning Director, Town of Davidson*

- F. **Existing Development:** If a participating parcel(s) is part of an existing development, then the following documentation shall be provided:

1. **Approved Stormwater Mitigation Plan:** A storm water mitigation plan approved by Mecklenburg County Storm Water Services, Water Quality Program, for the receiving parcel based on the pathway pursued:
  - a. **Buffer/Vegetative Conveyances:** Must meet all applicable ordinance requirements for parcels located in water supply watersheds.
  - b. **Engineered Stormwater Controls:** Must confirm the following:
    - The effected BMP(s) has been designed to handle the additional BUA.
    - All participating lots are in the same drainage basin.
    - Verified as-built information of the existing, approved BMP.
    - Sealed engineer calculations to prove existing and future compliance with the water quality requirements based on the proposed BUA to be transferred.
2. **Homeowner's Covenant Agreements:** A draft of revised covenant documents reflecting the additional BUA and other pertinent information for all affected parcels.

- G. **Approved Development Plan:** An approved development plan illustrating the receiving parcel's approved conceptual development. At the Planning Director's discretion, a Preliminary Sketch Plan of the donating parcel showing available details related to the parcel's existing and future conditions shall be provided.

- H. **Public Notice Materials:** If application is accepted, then the following shall be provided:

1. **Address List and Envelopes/Letters (Postage Pre-paid):** An address list as well as stamped envelopes and notice letters for all adjacent property owners. Draft copies of the letter can be obtained from the Planning Department.
2. **Noticing Fee:** Reimbursement of fees incurred in fulfillment of statutory noticing requirements.

**Commented [LL37]: [PBOC]** This language was modified to clarify what documentation is required of the receiving parcel and donating parcel to constitute a complete BUA averaging application.



**Ordinance 2018-03 (DRAFT)**  
**Watershed Protection Overlay District Text Amendments**

TOWN OF DAVIDSON BOARD OF COMMISSIONERS (the “Town Board”) adopts the following text amendments to the **Davidson Planning Ordinance**. The changes to DPO Section 17 are being undertaken to provide necessary clarifications, address persistent issues and inconsistencies, and remove inapplicable sections since the Watershed Protection Overlay District was approved by the Board of Commissioners and came into effect on October 1, 1993.

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**CHAPTER 17: Watershed Protection Overlay District**

**17.1 Authority and Enactment**

The Legislature of the State of North Carolina has, in Chapter 160A, Article 8, Section 174, General Ordinance Authority; and in Chapter 143, Article 21, Watershed Protection Rules, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Davidson Board of Commissioners does hereby ordain and enact into law the text contained herein to satisfy said statutory requirements.

**17.2 Jurisdiction**

The provisions of this section shall apply only within areas designated as Water Supply Watersheds by the NC Environmental Management Commission and shall be depicted on the Town of Davidson’s Watershed map. Where there is a conflict between the regulations contained in this section and any other portion of the Planning Ordinance, the provision of this section shall apply to properties located within a designated Water Supply Watershed area.

**17.3 Definitions**

For the purpose of interpreting this section, certain words or terms are herein defined. Except as defined herein, or in Section 16 - Definitions, all other words shall have their everyday dictionary definition. Where a term is defined in this section and in Section 16 Definitions, the definition in this section shall apply to this section only.

**Agricultural Use:** The use of waters for stock watering, irrigation, and other farm purposes.

**Animal Unit:** A unit of measurement developed by the US Environmental Protection Agency that is used to compare different types of animal operations.

**Buffer, Vegetative:** An area of natural or planted vegetation through which stormwater runoff flows in a diffused manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of Lake Norman and from the top of the bank on each side of streams.

**Built-Upon Area:** Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.) Built upon areas shall be determined on a project-by-project basis.

**Composting Facility:** A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

**Critical Area:** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

**Development:** Any land disturbing activity which adds to or changes the amount of impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

**Discharging Landfill:** A facility with liner, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

**Expansion:** Any walled and roofed extension of or increase in the floor area or height of an existing building connected by a load-bearing wall; and/or, an increase in the built-upon area to site components such as parking, improvements, or other structures. For the purpose of the watershed ordinance, any expansion shall be required to have preserved at least 50% of the interior heated floor area.

**Existing Development:** Projects that are built or projects that have established a vested right under North Carolina zoning law as of the effective date of this ordinance (October 1, 1993) based on at least one of the following criteria:

- (a) Having an approved site specific or phased development plan; or
- (b) Having an outstanding valid building permit; or
- (c) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government written approval to proceed with the project.

**Existing Lot of Record:** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to October 1, 1993 of this ordinance, or a lot described by metes and bounds, the description of which has been recorded prior to October 1, 1993. (Note: This definition containing the October 1, 1993 stipulation shall be applicable only to Section 17 of this ordinance.)

**Hazardous Material:** Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 or CWA (oil and hazardous substances).

**High Density Option:** Any new development which exceeds 24 percent built-upon area (BUA), requiring engineered stormwater control devices approved by the Town of Davidson as prescribed by the Environmental Management Commission's adopted Water Supply Watershed Protection rules.

**Industrial Development:** Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning, or developing any product or commodity.

**Landfill:** A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the N.C. General Statutes. For the purpose of Section 17, this term does not include compost facilities.

**Low Density Option:** Any new development which does not exceed 24 percent built-upon area (BUA).

**Plat:** A map or plan of a parcel of land which is to be, or has been subdivided.

**Protected Area:** The area adjoining and upstream of the critical area in a WS-IV water supply in which protection measures are required. The boundaries of the protected areas are defined as extending five miles upstream and draining to water supply reservoirs (measured from the normal pool elevation) or to the ridge line of the watershed (whichever comes first); or ten miles upstream and draining to the intake located directly in the stream or river (run-of-the-river), or to the ridge line of the watershed (whichever comes first). Major landmarks such as highways or property lines may be used to delineate the outer boundary of the protected area if these landmarks are immediately adjacent to the appropriate outer boundary of five or ten miles. In some cases the protected area will encompass the entire watershed.

**Redevelopment:** Rebuilding activities, including demolition, on land containing built upon area as of the effective date of this ordinance (October 1, 1993).

**Residential Development:** Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

**Toxic Substance:** Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

**Variance, Major:** A variance from the minimum Town's watershed protection rules that results in any one or more of the following:

1. The relaxation by a factor greater than five percent of any buffer, density or built-upon area requirement under the high density option;
2. Any variation in the design, maintenance, or operation requirements of approved stormwater management systems;
3. The relaxation by a factor greater than 10 percent of any buffer, density or built-upon area requirement under the low density option.

**Variance, Minor:** A variance from the minimum Town's watershed protection rules that results in any one or more of the following:

1. The relaxation by a factor of up to, and including, five percent of any buffer, density or built-upon area requirement under the high density option;
2. The relaxation by a factor up to, and including, 10 percent of any buffer, density or built-upon area requirement under the low density option.

**Watershed:** The entire land area contributing surface drainage to a specific point (e.g. the water supply intake).

#### **17.4 Effective Date and Adoption Date**

Section 17 shall take effect and be in force on October 1, 1993. The Davidson Board of Commissioners adopted it on September 14, 1993.

#### **17.5 Rules Governing the Interpretation of Watershed District Boundaries**

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Davidson Watershed Map, the following rules shall apply:

1. Where watershed district boundaries are indicated as approximately following either street, alley, railroad or highway lines or center lines thereof, such lines shall be construed to be the watershed district boundaries.
2. Where watershed district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be the watershed district boundary. However, a surveyed plat prepared by a registered land surveyor may be submitted to the Planning Director as evidence that one or more properties along these boundaries do not lie within the watershed area.
3. Where the watershed district boundary lies at a scaled distance of more than 25 feet from an adjoining lot line, the location of the watershed district boundary shall be determined by use of the scale appearing on the map.
4. Where the watershed district boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
5. Where other uncertainty exists, the Planning Director shall interpret the Davidson Watershed Map to determine the location of such boundaries. This decision may be appealed to the Board of Adjustment.

## **17.6 Exceptions to Applicability**

Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor restrict any provisions of the Davidson Planning Ordinance; however, the adoption of the Watershed Protection Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect within the planning jurisdiction of the Town of Davidson (as depicted in the Davidson Planning Areas map) at the time of the adoption of the ordinance that may be construed to impair or reduce the effectiveness of this ordinance or to conflict with any of its provisions.

It is not intended that these regulations interfere with any easement, covenant or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control. Nonconformities shall follow the requirements of Section 12 of the Davidson Planning Ordinance.

### **17.6.1 Expansions to Existing Development**

Existing development, as defined in this ordinance, is not subject to the requirements of this section. Expansions to structures classified as existing development on any lot other than a lot containing a single-family residence as the principle use must meet the requirements of this ordinance; however, the built-upon area of existing development is not required to be included in the impervious calculations (i.e. the maximum built-upon area). If structures classified as existing development are removed, the parcel's built-upon-area must comply with the standards of this ordinance.

### **17.6.2 Existing Lots of Record**

An existing lot of record owned by an individual prior to the effective date of these regulations, regardless of whether or not a vested right has been established, may be developed or used for single-family residential purposes without being subject to these regulations. However, this shall not be applicable to multiple contiguous lots under single ownership that do not meet the requirements of the underlying planning area.

## **17.7 Watershed Subareas Established**

The purpose of this section is to list and describe the various watershed subareas herein created. The following subareas shall be in place and are depicted on the Davidson Watershed Map:

- a) Critical Area: The Critical Area is defined as the land area which begins at the normal pool elevation of Lake Norman and extends one-half mile inland or to the ridgeline, whichever is closest, as shown more specifically on the Town of Davidson watershed map.
- b) Protected Area: There is no Lake Norman Protected Area located within the jurisdiction of the Town of Davidson.

### **17.7.1 Critical Area (CA)**

The intent of these regulations is to require higher standards in the Critical Area of the Lake Norman Watershed because of the greater risk of degradation of the drinking water supply from pollution. All uses permitted in the Critical Area are subject to the standards of the both the watershed subarea and underlying zoning district. In every case the more restrictive standard controls.

#### **17.7.1.1 Allowed Uses (Only if Permitted in the Underlying Planning Area)**

- A. Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps. Animal operations with greater than 100 animal units shall employ Best Management Practices by July 1, 1994 as recommended by the Soil and Water Conservation Commission. (Note: The Soil and Water Conservation Commission is the designated management agency responsible for implementing the provisions of Section 16 relating to agricultural activities.)
- B. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-0209).
- C. Residential development.
- D. Non-residential development (i.e. commercial, institutional, or industrial development) excluding: (i) the storage of toxic and hazardous materials unless a spill containment plan is implemented; (ii) landfills; and (iii) sites for land application of sludge/residuals or petroleum contaminated soils.

#### **17.7.1.2 Built-Upon Area Limits**

All development must comply with the built-upon area limits of either the Low Density or High Density Option as described below. When calculating the built-upon area, total project area shall include total contiguous acreage of the adjacent or adjoining tract(s) on which the project is to be developed. Note: For the purposes of the watershed ordinance, the terms Low and High Density describe a site's built-upon area (i.e. land coverage); they do not describe units per acre.

- A. **Low Density Option:** Development shall not exceed a built-upon area of 24 percent on a project by project basis.
- B. **High Density Option:** Development shall not exceed a built-upon area of 50 percent on a project-by-project basis. Note: Control structures must be used to treat storm water as explained in Section 17.7.3.
- C. **Reserve Built-Upon Area:** Development or redevelopment of a Detached House, Attached House, or Townhome approved after (effective date of ordinance revision) shall reserve, at minimum, 1% of the lot area but not less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant. Such reserve built-upon area shall be treated as part of the built-upon area for the purposes of calculating the 24 percent and 50 percent maximum BUA set forth in A. and B. of this Section 17.1.1.2.

#### **17.7.3 High Density Option**

##### **A. General Requirements**

The Planning Director may approve a project using the high-density option consistent with the following standards:

1. **Critical Area:** Engineered storm water controls shall be used to control runoff from the first inch of rainfall for development which contains a built-upon area of greater than 24 percent to 50 percent on a project-by-project basis. Individual single-family detached houses are not eligible to utilize engineered stormwater controls to meet this section's requirements.
2. **Protected Area:** There is no Lake Norman Protected Area located within the jurisdiction of the Town of Davidson.

#### **B. Inspection Fees**

The Town reserves the right to conduct inspections in accordance with this ordinance. A fee in accordance with the fee schedule approved by the Planning Director shall be required to be paid by the owning entity prior to each inspection being conducted.

#### **C. Operation and Maintenance Plan**

1. Any stormwater control structure approved by the Planning Director shall be prepared by a North Carolina registered professional engineer or landscape architect (to the extent that the General Statutes allow) and predicated on the developer and the Town entering into a binding operation and maintenance plan. The plan shall require the owning entity of the structure(s) to maintain, repair, and, if necessary, reconstruct said structure(s) in accordance with the operation and maintenance plan provided by the developer to the Town. The plan must be approved by the Planning Director prior to, or in conjunction with, approval of the high density option for said project.
2. A separate plan must be provided by the developer for each stormwater control structure, containing, at a minimum, what operation and maintenance actions are needed and will be undertaken, what specific quantitative criteria will be used for determining when those actions are to be taken, and who is responsible for such actions. The Plan shall clearly indicate what steps will be taken for restoring a stormwater control structure to design specifications if a failure occurs.
3. Amendments to the plan and/or specifications of the stormwater control structure(s) may only be approved by the Planning Director. Proposed changes shall be prepared by a North Carolina registered professional engineer or landscape architect, (to the extent that the General Statutes allow) and submitted to the Planning Director for approval. Such amendments shall be accompanied by all information and fees prescribed by this ordinance.
4. If the Planning Director finds that the plan, once approved, is inadequate for any reason, the Planning Director shall notify the owning entity of any changes mandated by the Town and a time-frame in which changes to the plan shall be made.

#### **D. Post of Financial Securities**

All new stormwater control structures approved employing the high density option shall be conditioned on the posting of adequate financial assurances for the purpose of constructing, maintaining, repairing or reconstructing said devices.

1. A surety bond or equivalent security shall be posted in accordance with Davidson Planning Ordinance requirements (6.11 Improvement Guarantees).
2. Once the stormwater control structure(s) has been constructed and inspected in the manner provided for in this ordinance, and approved by the Planning Director, the Planning Director may authorize the release of up to 75 percent of the surety bond or other equivalent security outlined above. The remaining portion of the surety bond or equivalent security may be released to the owning entity in accordance with this ordinance.
3. Prior to said release, the applicant shall be required to deposit with the Town either cash or a similar instrument approved by the Planning Director in an amount equal to 15 percent of the total construction cost or 100 percent of the cost of maintaining, repairing, or reconstructing said structure(s) over a 20-year period, whichever is greater. The estimated cost of maintaining the stormwater control structure(s) shall be consistent with the approved Operation and Maintenance Plan provided by the applicant as outlined in this section.

#### **E. Default**

1. Upon default of the applicant to complete the stormwater control structure(s) as detailed in the surety bond or other equivalent security, the Planning Director may obtain and use all or any portion of the funds necessary to complete the improvements based on actual construction costs. The Planning Director shall return any funds not spent in completing the improvements to the owning entity.
2. Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the approved Operations and Maintenance Plan, the Planning Director shall obtain and use any portion of the cash security outlined in Section 17.7.3.E to make necessary improvements based on an engineering estimate provided by the Town.

#### **F. Vegetation and Grounds Management**

1. Landscaping and grounds management shall be the responsibility of the owning entity of said structure(s). Vegetation shall not be established or allowed to mature to the extent that the integrity of the structure(s) is in any way threatened or diminished, or to the extent of interfering with any easement or access to the structure.
2. Except for routine landscaping and grounds maintenance, the owning entity shall notify the Planning Director prior to any repair or reconstruction of the structure. All improvements shall be consistent with the approved plan and specifications for that structure. After notification by the owning entity, the Town shall inspect the completed improvements and inform the owning entity of any required additions, changes, or modifications needed to complete said improvements. A fee, in accordance with a fee schedule adopted by the Planning Director shall be charged to the owning entity for any inspections (and re-inspections). A time period for making such changes shall also be stipulated by the Town.

#### **G. Inspections**

1. **Inspections of Newly Constructed Stormwater Structures**

All new stormwater control structures shall be inspected by the Planning Director or his/her designee after the owning entity notifies the Planning Director that all construction has been completed. At this inspection the owning entity shall provide:

- a. The signed deed, related easements, and survey plat for the structure in a manner suitable for filing with the Register of Deeds, if ownership of the stormwater control structure(s) is to be transferred to another person, firm or entity. (This requirement will be waived for any repair work when such deed has previously been filed.)
- b. A certification by a professional engineer or landscape architect (to the extent allowable by the North Carolina General Statutes) stating that the stormwater control structure is complete and consistent with the approved plan and all specifications previously stipulated by the Town.
- c. The Planning Director shall review the materials submitted by the owning entity along with the Town's inspection for approval. If the Planning Director approves the inspection report and accepts the certification, deed, and easements, the Planning Director shall file said deed and easements with the Register of Deeds. Release of up to 75 percent of the surety bond or other equivalent security called for in Section 17.7.3.C shall be made in a manner as prescribed in this ordinance.
- d. If deficiencies are found as a result of the inspection, the Planning Director shall direct the owning entity to make necessary improvements. Re-inspections will be made thereafter. No release of any funds shall be made by the Town until all deficiencies are properly addressed to the Town's satisfaction.
- e. No sooner than one year after approval of the stormwater control structure(s) by the Town, the owning entity may petition the Planning Director to release the remaining value of the surety bond or equivalent security called for in Section 17.7.3.C. Upon receipt of said petition, the Town shall inspect the stormwater control structure(s) to determine whether the structure(s) is performing as designed and intended. Once the inspection is made, the Planning Director shall present the inspection report and recommendations to the Board of Commissioners.
- f. An occupancy permit shall not be issued for any building within the permitted development until the Planning Director has approved the stormwater control structure(s) in a manner as herein prescribed.

## **2. Annual Inspection of Stormwater Structures**

- a. All stormwater control structures shall be inspected by the Town or their designated agents on an annual basis to determine whether the structures are performing as designed and intended. Records of inspection shall be maintained as approved by the Planning Director. Annual inspections shall begin one year after approval of the stormwater control structure(s) by the Planning Director. A fee, in accordance with a fee schedule adopted by the Planning Director, may be charged to the owning entity for annual inspections (and re-inspections). A copy of each inspection report shall be filed with the Planning Director.

- b. In the event the Town's report indicates the need for corrective action or improvements, the Planning Director shall notify the owning entity of the needed improvements and the date by which such improvements are to be completed. All improvements shall be consistent with the adopted Operation and Maintenance plan and specifications. Once such improvements are made, the owning entity shall forthwith contact the Planning Director and ask that an inspection be made.

#### **H. Stormwater Control Structure Specification**

1. All stormwater control structures shall be designed by either a North Carolina registered professional engineer or a landscape architect (to the extent that the General Statutes allow).
2. Stormwater control structures shall treat the runoff generated from the first inch of rainfall.
3. Stormwater control structures used to meet these requirements shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids.
4. Stormwater control structures shall be installed to control the volume leaving the project site at post-development for the 1-year, 24-hour storm. Runoff volume drawdown time shall be a minimum of 24 hours, but not more than 120 hours.
5. Stormwater control structures shall be designed in accordance with the Charlotte-Mecklenburg BMP Design Manual.
6. In addition to the required vegetative filters, all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within 30 days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the Operation and Maintenance plan described in this ordinance.
7. A description of the area containing the stormwater control structure(s) shall be prepared and recorded as a separate deed with the Register of Deeds along with any easements necessary for general access to the stormwater control structure(s) should ownership (and maintenance) of the stormwater control structure(s) be transferred to another person, firm or entity. The deeded area shall include the detention pond, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs, and reconstruction.

#### **I. Planning Director Approval Process on High Density Application**

The Planning Director shall either approve an application for the high density option, approve the application with fair and reasonable conditions, or disapprove such an application based upon the applicable criteria contained in this Ordinance.

1. If the Planning Director approves the application, such approval shall be predicated on: a) the owning entity and the Town entering into a binding Operation and Maintenance plan as indicated in Section 17.7.3.B and b) the posting of a surety bond or other equivalent security as provided in Section 17.7.3.C. Such approval shall be indicated on the application and on

both copies of the plans submitted with the application. A copy of the approved application and one copy of the plans shall be returned to the applicant.

2. If the Planning Director disapproves the application, the reasons for such action shall be sent by personal delivery, electronic mail, or first class mail by the Planning Director to the applicant within five working days of the disapproval. The applicant may make revisions or changes and submit a revised plan. The application fee may be waived if the Planning Director determines the changes are not substantial.

#### **17.7.4 Buffer Areas Required**

##### **A. Vegetative Buffers**

Developments must place or maintain undisturbed vegetative buffers, except as specifically provided in this section, along the shoreline of Lake Norman measured horizontally by a licensed land surveyor from the full pond elevation (760' contour) and along each side of all perennial streams (as indicated on the most up-to-date version of a U.S.G.S. 1:24,000-7.5 minute map or as otherwise determined by local government studies) measured from the top of the bank on each side on the stream. Minimum buffer widths are 40 feet if the low density option is used or 100 feet if the high density option is used.

The following actions may not be undertaken without Planning Director approval:

- Restoration: Desirable artificial stream bank or shoreline stabilization.
- Removal: The removal of dead or diseased trees. Removal of underbrush is not permitted in the buffer except at approved pathways and locations.
- Tree Limbing: At approved locations, trees may be limbed up to half the distance of their height, not to exceed 15 feet above grade.

##### **B. Development in the Buffer**

No new development is allowed in the vegetative buffer area except for public projects such as road crossings and greenways, where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

#### **17.7.5 Public Health Regulations**

No activity, situation, structure or land use shall be allowed within a WS district which poses a threat to water quality and the public health, safety, and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash, or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

The Planning Director shall monitor land use activities within all WS districts to identify situations that may pose a threat to water quality. The Planning Director shall report all findings to the proper agency to handle the threat and/or the Board of Commissioners. The Planning Director may consult with any public agency or official and request recommendations. Where the Planning Director finds a threat to

water quality and the public health, safety, and welfare, the Planning Director shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation as herein authorized.

#### **17.7.6 Amendments to Regulations Pertaining to a WS District**

Under no circumstances shall the Board of Commissioners adopt any amendment, addition, or deletion that would cause these regulations to violate the watershed protection rules as adopted by the NC Environmental Management Commission. Any amendment to the boundaries of any particular Water Supply Watershed District shall be referred to the NC Division of Environmental Management, NC Division of Environmental Health, and the NC Division of Community Assistance for their review prior to adoption. Otherwise, amendments to the regulations contained in Section 17 shall follow procedures prescribed in Section 14.

#### **17.7.7 Variances**

The following sub-sections describe the process for pursuing a variance within the Lake Norman Critical Watershed. Approval of both minor and major variance requests as defined in this ordinance and subject to the regulations contained herein may only be granted upon a 4/5 affirmative vote of the Board of Adjustment.

##### **A. Minor Variance:**

1. Application Form & Fee: An application for a minor variance shall be on a form prescribed by the Town and shall be accompanied by a fee, the amount of which is in accordance with a fee schedule established by the Town. An application will not be considered complete unless it contains all information required and is accompanied by said fee. The application shall be accompanied by a map clearly identifying the subject property and all contiguous pieces of properties (including all properties traversed and/or separated by a road, stream, right-of-way or any similar natural or man-made configuration). In addition, a list of names and addresses of the owners of said properties, from the most recent official tax records, shall be provided by the applicant. All applications shall be submitted to the Planning Director.
2. Application Completeness Determined: Once having received an application, the Planning Director shall have five working days to determine its completeness. If he determines that the application is not complete, he shall serve a written notice on the petitioner specifying the application's deficiencies. The Planning Director shall take no further action on the application until the deficiencies are remedied. If the Planning Director fails to so notify the petitioner, the application shall be deemed complete. Once the application is deemed complete, the Board of Adjustment shall hold a public hearing on the application.
3. Scheduling the Board of Adjustment Meeting: The Planning Director, having determined that an application is complete, shall place the application on the agenda of the next Board of Adjustment regular or special meeting occurring at least fifteen days thereafter.
4. Public Hearing Notification: Notification of said Board of Adjustment public hearing shall be as follows:
  - a. Preparation/Content: Notices shall include a description of the minor variance request; indicate the nature of the public hearing; and, list and the date, time, and place at which

the hearing is to occur. Notices shall be prepared by the applicant using text provided by the Town.

- b. **Recipients:** Notices shall be sent by first class mail to the following:
    - i. **Local Governments:** The Clerk of all municipal and county governments having jurisdiction within the same watershed; and
    - ii. **Major Water Consumers:** Any major consumer of water whose point of intake lies within the same watershed.
  - c. **Mailing/Date:** Notices shall be sent by the Town by first class mail at least 10 days prior to the public hearing.
  - d. **Comments Received:** Any comments received from notified local governments or major water consumers regarding a minor variance request shall become part of the record of proceedings.
5. **Public Hearing:** The Board of Adjustment shall conduct the public hearing in a quasi-judicial manner. All persons giving evidence shall be sworn in by the board Chair. In all matters coming before the Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application. The Board of Adjustment shall base their recommendation on the testimony given at the public hearing and on any comments received from notified local governments or major water consumers regarding the major variance request. The testimony, comments and evidence shall become part of the record of proceedings.
6. **Board of Adjustment Recommendation:** The Board of Adjustment shall make a recommendation on a minor variance involving property located within a Water Supply Watershed Overlay District no later than 30 days from the close of the public hearing. The Board of Adjustment may recommend a variance only after each of the findings found in Section 14 of the Planning Ordinance are found in the affirmative. Recommendations shall be in one of the following forms:
- a. Recommend approval of the variance if the findings of fact in Section 14 are found in the affirmative; or
  - b. Recommend approval of the variance with fair and reasonable conditions attached if the findings of fact in Section 14 are found in the affirmative; or
  - c. Recommend denial of the variance if at least one finding of fact in Section 14 is found in the negative.
- The concurring vote of four-fifths (4/5) of the voting members of the Board of Adjustment shall be necessary to make a recommendation for approval of a minor variance application involving property located within a Watershed Protection Overlay District.
7. **Record of Decision:** If the Board of Adjustment makes a favorable recommendation on a major variance application (with or without additional conditions or safeguard) or fails to make any recommendation on the major variance application within the specified time period, the Planning Director shall prepare a record of the public hearing which shall include the following:
- a. The variance application;
  - b. Evidence that proper notification of the public hearing has been made;
  - c. A summary of evidence presented, including comments submitted from other local governments or major water consumers within the same watershed jurisdiction;
  - d. Proposed findings and exceptions;

- e. The Board of Adjustment's recommendation, if one is submitted within the 30 day time period, including all conditions proposed to be added to the permit.

A copy of the record of decision shall be filed with the Board of Adjustment case materials and one copy presented to the applicant. The approval, with any additional conditions or safeguards, shall become part of any zoning permit issued by the Planning Director.

## **B. Major Variance:**

1. Application Form & Fee: An application for a major variance shall be on a form prescribed by the Town and shall be accompanied by a fee, the amount of which is in accordance with a fee schedule established by the Town. An application will not be considered complete unless it contains all information required and is accompanied by said fee. The application shall be accompanied by a map clearly identifying the subject property and all contiguous pieces of properties (including all properties traversed and/or separated by a road, stream, right-of-way or any similar natural or man-made configuration). In addition, a list of names and addresses of the owners of said properties, from the most recent official tax records, shall be provided by the applicant. All applications shall be submitted to the Planning Director.
2. Application Completeness Determined: Once having received an application, the Planning Director shall have five working days to determine its completeness. If he determines that the application is not complete, he shall serve a written notice on the petitioner specifying the application's deficiencies. The Planning Director shall take no further action on the application until the deficiencies are remedied. If the Planning Director fails to so notify the petitioner, the application shall be deemed complete. Once the application is deemed complete, the Board of Adjustment shall hold a public hearing on the application.
3. Scheduling the Board of Adjustment Meeting: The Planning Director, having determined that an application is complete, shall place the application on the agenda of the next Board of Adjustment regular or special meeting occurring at least fifteen days thereafter.
4. Public Hearing Notification: Notification of said Board of Adjustment public hearing shall be as follows:
  - a. Preparation/Content: Notices shall include a description of the major variance request; indicate the nature of the public hearing; and, list and the date, time, and place at which the hearing is to occur. Notices shall be prepared by the applicant using text provided by the Town.
  - b. Recipients: Notices shall be sent by first class mail to the following:
    - i. Nearby Property Owners: All adjacent and abutting property owners.
    - ii. Local Governments: The Clerk of all municipal and county governments having jurisdiction within the same watershed; and
    - iii. Major Water Consumers: Any major consumer of water whose point of intake lies within the same watershed.
  - c. Mailing/Date: Notices shall be sent by the Town by first class mail at least 10 days prior to the public hearing.
  - d. Comments Received: Any comments received from notified local governments or major water consumers regarding a minor variance request shall become part of the record of proceedings.

5. Public Hearing: The Board of Adjustment shall conduct the public hearing in a quasi-judicial manner. All persons giving evidence shall be sworn in by the board Chair. In all matters coming before the Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application. The Board of Adjustment shall base their recommendation on the testimony given at the public hearing and on any comments received from notified local governments or major water consumers regarding the major variance request. The testimony, comments and evidence shall become part of the record of proceedings.

6. Board of Adjustment Recommendation: The Board of Adjustment shall make a recommendation on a major variance involving property located within a Water Supply Watershed Overlay District no later than 30 days from the close of the public hearing. The Board of Adjustment may recommend a variance only after each of the findings found in Section 14 of the Planning Ordinance are found in the affirmative. Recommendations shall be in one of the following forms:

- a. Recommend approval of the variance if the findings of fact in Section 14 are found in the affirmative; or
- b. Recommend approval of the variance with fair and reasonable conditions attached if the findings of fact in Section 14 are found in the affirmative; or
- c. Recommend denial of the variance if at least one finding of fact in Section 14 is found in the negative.

The concurring vote of four-fifths (4/5) of the voting members of the Board of Adjustment shall be necessary to make a recommendation for approval of a minor variance application involving property located within a Watershed Protection Overlay District.

7. Preliminary Record of Decision: If the Board of Adjustment makes a favorable recommendation on a major variance application (with or without additional conditions or safeguard) or fails to make any recommendation on the major variance application within the specified time period, the Planning Director shall prepare a record of the public hearing which shall include the following:

- a. The variance application;
- b. Evidence that proper notification of the public hearing has been made;
- c. A summary of evidence presented, including comments submitted from other local governments or major water consumers within the same watershed jurisdiction;
- d. Proposed findings and exceptions;
- e. The Board of Adjustment's recommendation, if one is submitted within the 30 day time period, including all conditions proposed to be added to the permit.

If the Board of Adjustment recommends that an application for a major variance involving property within a Watershed Protection Overlay District should be denied, then the application shall not be forwarded to the Environmental Management Commission, and shall be considered denied by the Board of Adjustment. The Planning Director shall send written notice of the denial by personal delivery, electronic mail, or first class mail to the applicant within five working days of the Board's decision.

8. Environmental Management Commission Decision: The preliminary record shall be sent to the Environmental Management Commission for its review. If the Environmental Management Commission concludes from the preliminary record that the variance qualifies

as a major variance, the Commission shall make a final decision on the request and mail it to the Planning Director.

- a. Approval: If the Environmental Management Commission upholds the Board of Adjustment's recommendation for approval of a major variance, the Planning Director shall forward the Environmental Management Commission's decision to the applicant by personal delivery, electronic mail, or first class mail within five working days of receipt of the decision from the Commission. The approval, with any additional conditions or safeguards, shall become part of any zoning permit issued by the Planning Director. A copy of the record of decision shall be filed with the Board of Adjustment case materials.
- b. Denial: If the Environmental Management Commission overturns the Board of Adjustment's recommendation for approval of a major variance, the Planning Director shall send the decision by personal delivery, electronic mail, or first class mail to the applicant within five working days of receipt of the decision from the Environmental Management Commission. The materials must state that the major variance request was denied and list the reasons for such denial. A copy of the record of decision shall be filed with the Board of Adjustment case materials.

#### **17.7.8 Enforcement**

- A. These regulations shall be enforced by the Planning Director. In addition to other duties, the Planning Director shall keep records regarding any expansions approved to structures classified as existing development, so that the maximum coverage of all new expansions do not exceed that allowed in this ordinance.
- B. The Planning Director shall maintain a file on all applications for minor and major variances. A copy of information pertinent to any minor variance application request (including minutes of the hearing, findings made by the Board of Adjustment, actions taken by the Board of Adjustment, names and addresses of all persons giving evidence at the public hearing) shall be submitted annually during the last week of December to the Division of Environmental Management, Supervisor of the Classification and Standards Group.
- C. The penalties and fines described in Section 14 and Section 15 are applicable to this section.

#### **17.8 BUILT-UPON AREA AVERAGING (DENSITY AVERAGING)**

Built-Upon Area (BUA) Averaging allows parcels located within the Lake Norman Critical Watershed to obtain additional development rights through an increase in a site's built-upon-area (BUA) by averaging the total BUA of the developing lot (i.e. "receiving lot") with the total BUA of an undeveloped/less developed lot within the same watershed and jurisdiction ("donating lot"). This is accomplished by transferring undeveloped area on a donating lot to a receiving lot via a BUA Averaging Certificate, which includes a non-revocable easement, metes and bounds description, and recorded plat of the area(s) to remain undisturbed. The BUA Averaging Certificate requires approval by the Watershed Review Board, a sub-set of the Board of Adjustment; for the purposes of this ordinance, the Board of Adjustment may act as the Watershed Review Board.

### **17.8.1 PURPOSE & ELIGIBILITY, PROCESS, DOCUMENTATION**

- A. Purpose:** The purpose of this provision is to preserve open space in the more sensitive areas of the watershed, and to ensure orderly and planned development throughout the watershed.
- B. Uses:** The participating parcels may include or be developed for residential or non-residential purposes under the Individual Building and Master Plan processes. To be eligible to pursue the averaging process, the parent parcel must first have received approval through the required development approval process.

Eligible uses permitted to utilize this program include but are not limited to: Residential uses intended to meet an identified housing need (i.e. less than 120 percent of AMI), or Civic/Educational/Institutional uses as defined by the Davidson Planning Ordinance. Additional uses will be considered by the Board of Adjustment on a case by case basis.

Note: Individual parcels whose principal use is or will be single-family residential are not eligible to be considered as receiving parcels if the total built-upon area (BUA) would exceed 24 percent; this includes uses within the Single-Family Detached House building type. This does not apply to parcels owned and managed by non-profit entities whose mission is to provide affordable housing.

- C. Requirements:** The following requirements must be met by all parcels:
1. **Ownership:** Only the owner(s) of the participating parcels may submit a Density Averaging Certificate application. Areas subject to easements, covenants, and/or development restrictions not legally controlled by the owner may not be included as donated parcel area; this includes right-of-way area.
  2. **Pre-Existing Variance:** No parcel for which a watershed variance has been granted, or would be required, may be included as a donating or receiving parcel.
  3. **Location:** Participating parcels shall be located in the same water supply watershed and preferably in the same drainage area of the watershed. All parcels must be located within the Town of Davidson's planning jurisdiction.
  4. **Transferability:** A property in a more restricted watershed area shall not acquire BUA from a property in a less restricted watershed area.
  5. **Overall Area:** The cumulative BUA of all participating parcels shall not exceed the BUA that would be allowed if the parcels were developed separately.
  6. **Buffers:** On all participating parcels buffers shall at least meet the applicable, minimum ordinance requirements for parcels located in water supply watersheds.
  7. **Preservation:** The donated area shall remain in an undisturbed vegetated or natural state. Previously developed or graded lots may be used as donating parcels so long as the donated area of the lot is revegetated according to Davidson Planning Ordinance requirements. The donated area shall be irrevocable unless amended per the requirements of this ordinance prior to the undertaking of any development activity on the participating parcels.

8. **Required Features:** When the donated area of a parcel abuts street frontage or right-of-way, the preserved area shall feature park or public space amenities as determined by the Planning Director.
9. **Stormwater Design:** All participating parcels must meet the applicable buffer and engineered stormwater controls as outlined in the ordinance. Parcels shall be controlled by on-site facilities in accordance with the criteria specified in the Davidson Water Quality Design Manual and the Davidson Planning Ordinance for high-density development. Development permitted under BUA averaging and meeting applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.
10. **Design:** Built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.

### **17.8.2 PROCESS**

A Built-Upon Area (BUA) Averaging Certificate shall be obtained from the Watershed Review Board (Board of Adjustment) to ensure that all participating parcels considered together meet the standards of the ordinance and that potential owners have a record of how the watershed regulations were applied to each parcel.

- A. **Applicability:** All participating parcels may be processed under a single BUA Averaging Certificate, and will be considered as one development for the purpose of counting total built-upon-area. One BUA Averaging Certificate will be issued per application. Unless otherwise specified, the application shall follow the rules and procedures specified by the Board of Adjustment and Appeals & Variances sections of this ordinance.
- B. **Process:** The following steps outline the typical process for obtaining a BUA Averaging Certificate. Note: Application preparation is considered an iterative process; an application must be deemed complete by the Planning Director and all revisions addressed in order for a Board of Adjustment hearing to be scheduled. Incomplete, improperly formatted, or documentation errors may require revision prior to acceptance by the Planning Director.
  1. **Lot Identification:** The applicant shall identify participating lots, prepare draft plats, and complete a BUA Averaging Form.
  2. **Pre-Application Meeting:** The applicant must set up an appointment with the Planning Director. At the initial meeting the Planning Director will explain the BUA averaging process and review with the applicant the appropriate ordinances, documents, and plans relevant to the project. Additional meetings may be required prior to application submission, as deemed necessary by the Planning Director.
  3. **Submit Application & Fee:** The applicant must submit the following documents (see the Documentation section for further information):

- Town of Davidson Application and Application Fee
  - Surveys of Existing Conditions
  - Existing Plats and Deeds
  - Metes & Bounds Description(s)
  - Final Plats (Drafts)
  - Existing Development Materials (as applicable)
  - Approved Development Plan
  - Public Notice Materials
4. Application Review: Staff will review the application and determine whether the materials constitute a complete submittal. Application revisions, and additional meetings, may be required by the Planning Director prior to the application being deemed complete. Once the application is determined to satisfy the requirements, a Board of Adjustment hearing may be scheduled.
5. Board of Adjustment Hearing: A hearing shall be scheduled no later than 45 days after a complete application has been accepted by the Planning Director.
6. Board of Adjustment Decision: The Board of Adjustment shall issue a decision within 31 days of the close of the public hearing. The board shall make written findings supported by appropriate calculations and documentation that the participating parcels as a whole conform to the intent and requirements of this Article and Section, and that the proposed agreement assures protection of the preserved area. The request must be consistent with adopted plans and/or policies, approved development plans, Davidson Planning Ordinance requirements, and the Board of Adjustment's determination based on these resources that the proposal achieves an identified public interest.
7. Certificate Issued: If approved, the Town of Davidson will issue a BUA Averaging Certificate to the applicant. The BUA Averaging Certificate shall constitute the Board of Adjustment decision, staff approval letter, and application documentation.
8. EPM Submission: If approved by the Board of Adjustment, the applicant must submit the following documents to Mecklenburg County via the online EPM system:
- Mecklenburg County Application
  - Deeds
  - Final Plats
9. Plat Approval/Signature: Once approved in EPM, the applicant must submit a mylar copy of each plat to the Town of Davidson, Mecklenburg County LUESA, and the Register of Deeds for signature. A digital copy of each plat included in the application and filed with the Register of Deeds must be provided to the Town of Davidson for filing.
10. NC Department of Environmental Quality Submission: Upon issuance of the BUA Averaging Certificate and signed plat, one copy must be sent to the NC Department of Environmental Quality (DEQ). Included with the BUA Averaging Certificate will be the following:
- Site Plans;
  - Registered plats for both properties;

- Description of both properties;
- Documentation reflecting the development restrictions all participating parcels, including restrictions for all donated areas.

**11. Amendment:** If a certificate is approved by the Board of Adjustment, no change in the development proposal authorized for participating parcels shall be made unless the certificate is amended by the Board of Adjustment.

### **17.8.3 DOCUMENTATION REQUIREMENTS**

The following documentation shall be provided to constitute a complete built-upon area (BUA) averaging application:

**A. Administrative:**

1. **Town of Davidson Application:** A completed BUA Averaging Form, including:
  - a. **Description:** A description of all participating properties' and their existing conditions.
  - b. **Chart:** A chart summarizing the existing and proposed BUA for all participating properties.
2. **Fee:** A remitted fee of \$150 High-Density Residential; \$300 Commercial.

**B. Surveys:** Surveys of all participating parcels showing current BUA and current maximum BUA allowances, along with easements and/or development restrictions. The surveys must be performed by a licensed surveyor.

**C. Existing Plats & Deeds:** Copies of the existing, registered plats and deeds for all participating parcels.

**D. Metes & Bounds Description (Donating Parcel):** A metes and bounds description of the undisturbed natural area intended for recordation. The description must specify any limits on use and shall be recorded on the plat, in homeowner covenants (if applicable), and on the donating parcel's individual deed and shall be irrevocable unless amended per the ordinance.

**E. Final Plats (Draft):** Revised plats for all participating parcels. The plats must show all components as required in the ordinance, in a format approved by staff. Additionally, the plats must include:

1. **Purpose Statement:** Recommended text is as follows:

*Donor Parcels: The purpose of this plat is to allocate built-upon-area from this parcel to another parcel of land located within the same watershed. The remaining built-upon-area for this lot is XXXX. The donated [lot/area] is to remain in an undisturbed vegetated state in perpetuity.*

*Receiving Parcels: The purpose of this plat is to receive on this parcel built-upon-area from another parcel of land located within the same watershed. The resulting built-upon-area for this lot is XXXX.*

2. **Site Data:** Tax Parcel ID#s; Physical Addresses; Planning Area Designation (i.e. Zoning); Acreage.
3. **Metes/Bounds Description:** Metes/bounds description(s) of designated undisturbed natural area(s).
4. **Designation in Perpetuity:** A note that the natural area will remain undisturbed in perpetuity.
5. **BUA Values:** Existing and proposed maximum BUA allowances for all participating parcels.

6. Watershed Designation: The Watershed Overlay District for both parcels.
7. Buffer Delineation: Show any S.W.I.M., watershed, and post-construction buffers.
8. Floodplain/Community Encroachment Area: Show the line(s) associated with any base flood levels potentially affecting the site.
9. BUA Averaging Certification: In addition to certifications required by the ordinance, please include the following certifications on each plat:

*Density Averaging/Built-Upon-Area Transfer Plat*

*This plat represents a transfer of built-upon-area through preservation of a dedicated, undisturbed natural area for properties within the jurisdiction of the Town of Davidson. The resulting action may or may not create tracts of land that are compliant with the Davidson Planning Ordinance (DPO). This parcel is subject to the DPO built-upon area averaging standards: Any change to the development proposal affecting the approved built-upon-area allowance requires amendment to the existing Built-Upon Area Averaging Certificate and approval by the Davidson Board of Adjustment. The Planning Director reserves the right to make periodic site inspections to ensure compliance with these conditions.*

*Date*

*Planning Director, Town of Davidson*

- F. **Existing Development**: If a participating parcel(s) is part of an existing development, then the following documentation shall be provided:
  1. Approved Stormwater Mitigation Plan: A storm water mitigation plan approved by Mecklenburg County Storm Water Services, Water Quality Program, for the receiving parcel based on the pathway pursued:
    - a. Buffer/Vegetative Conveyances: Must meet all applicable ordinance requirements for parcels located in water supply watersheds.
    - b. Engineered Stormwater Controls: Must confirm the following:
      - The effected BMP(s) has been designed to handle the additional BUA.
      - All participating lots are in the same drainage basin.
      - Verified as-built information of the existing, approved BMP.
      - Sealed engineer calculations to prove existing and future compliance with the water quality requirements based on the proposed BUA to be transferred.
  2. Homeowner's Covenant Agreements: A draft of revised covenant documents reflecting the additional BUA and other pertinent information for all affected parcels.
- G. **Approved Development Plan**: An approved development plan illustrating the receiving parcel's approved conceptual development. At the Planning Director's discretion, a Preliminary Sketch Plan of the donating parcel showing available details related to the parcel's existing and future conditions shall be provided.
- H. **Public Notice Materials**: If application is accepted, then the following shall be provided:
  1. Address List and Envelopes/Letters (Postage Pre-paid): An address list as well as stamped envelopes and notice letters for all adjacent property owners. Draft copies of the letter can be obtained from the Planning Department.
  2. Noticing Fee: Reimbursement of fees incurred in fulfillment of statutory noticing requirements.

**Adopted on the 28<sup>th</sup> of August 2018.**

Attest:

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Elizabeth K. Shores  
Town Clerk

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Rusty Knox  
Mayor

DRAFT

# DPO 17 UPDATE: WATERSHED ORDINANCE



College Town. Lake Town. *Your Town.*

Section 17 Watershed Protection Overlay District  
Planning Ordinance - Text Amendments  
Board of Commissioners  
August 28, 2018

# TEXT AMENDMENTS UPDATE – OVERVIEW

## TOPICS COVERED

1. **Purpose & Background**
2. **Public Engagement**
3. **Strategic Plan/Core Value/Comp. Plan Alignment**
4. **What's Not Changing**
5. **Amendment Highlights**
6. **Pros & Cons**
7. **Next Steps**



# SECTION 17 - TEXT AMENDMENTS

## PURPOSE

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- **Intent:** To keep drinking water clean, require higher standards for properties near Lake Norman (17.7.1).
  
- **Accomplished By:**
  1. Updating outdated standards in the ordinance based upon NCDEQ and Meck County recommendations
  2. Clarifying existing standards
  
- **Applies:** To properties within 0.5 mi. of Lake Norman (i.e. west of Main St.)



# SECTION 17 - TEXT AMENDMENTS

## BACKGROUND

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In March 2017, Charlotte-Mecklenburg Stormwater Services (CMSS) suggested that Davidson update our Watershed Ordinance to:

- 1. Clarify Standards** (i.e. Process and Definitions)
  - 2. Address Inconsistencies** (i.e. Remove repeating “Existing Development” section)
  - 3. Remove Inapplicable Sections** (i.e. Cluster Developments)
- The Planning Board Ordinance Committee (PBOC) drafted and vetted proposed ordinance language.
  - After public hearing, the BoC chose not to move forward in its current format.
  - The PBOC recommended (July 2018) moving forward with amendments except for sections specific sections (removing exemptions and downtown development standards).
  - The BoC directed staff to bring text amendments forward save specific sections



# SECTION 17 - TEXT AMENDMENTS

## PUBLIC ENGAGEMENT / SINCE JAN. 2018

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- **Planning Board Ordinance Committee (PBOC):**
  - Sub-set of Planning Board, Citizen Volunteers
  - Review/Draft Amendments; Facilitate Citizen Meetings
  - Bi-Weekly Meetings, Citizen Meetings, Public Meetings after Planning Board
  - Open House: Presentation, Extended Q&A
- **Planning Board:** Discussed at 2018 Meetings – January-June (six)
- **Board of Commissioners:** Discussed at 2018 Meetings – January, February, April, July
- **Citizen Meetings:** February, March, April
- **Digital + Print Media:**
  - E-Crier Notifications: Monthly, Open House (Specific)
  - Website: Updates Tab
  - Planning Board/Board of Commissioner Agendas
  - Town Messenger Newsletter (All Households)



# SECTION 17 - TEXT AMENDMENTS

## POLICY ALIGNMENT

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- **Strategic Plan:**
  - Community engagement
- **Core Values:**
  - Healthy Environment, Open Communication
- **Comprehensive Plan:**
  - Enable Faithful Stewardship
    - » Sustain/Enhance Water Quality
  - Maintain Quality Design/Sound Planning Principles



# SECTION 17 - TEXT AMENDMENTS

## WHAT'S NOT CHANGING

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- **Environmental Rigor:** Emphasis on Clean Drinking Water
- **Maximum BUA Limits:** Thresholds + Requirements = Same
  - Low-Density: 24% BUA + Buffer
  - High-Density: 50% BUA + Stormwater Controls + Buffer
- **Buffer Requirements:** Distance from Lake/Perennial Stream
  - Low-Density: 40'
  - High-Density: 100'
- **Section 17.6:** Exceptions to Applicability
  - Expansions; Existing Lots of Record; Redevelopment

*\*Note: Terms such as low- and high-density are retained for consistency with Meck. County and state statute. The BUA density terms describe land coverage and stormwater controls; they do not describe units/acre.*



# SECTION 17 - TEXT AMENDMENTS

## AMENDMENT HIGHLIGHTS

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### SUMMARY OF PROPOSED SUBSTANTIVE CHANGES:

- **Section 17.3:** Definitions
  - Existing Development; Redevelopment; Variances
- **Section 17.8:** Density Averaging
  - Reorganization, Increase BOA Direction to Deny; Only Qualified Proposals

*\*Note: These highlight substantive changes to DPO Section 17. Additional changes are being proposed to clarify definitions, standards, and address inconsistencies; these are detailed in the Board of Commissioners and Planning Board agendas.*



# SECTION 17 - TEXT AMENDMENTS

## PROS & CONS

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### PROS:

- **Environmental Regulations:** Up-to-Date, Effectively/Fairly Applied
- **Increased Administrative Clarity:** Improve Consistency, Reduce Frustration
- **Maintains Stability:** Affirms/Clarifies Options of Long-standing Owners and Supports Existing Development's Character

### CONS:

- **Inaction:** Outdated, Has not been updated to reflect current best practices



# SECTION 17 - TEXT AMENDMENTS

## PROCEDURAL STEPS

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- **BOC Public Hearing:** 5/8/18
- **Planning Board Review + Recommendation:** 5/21/18
- **BOC/PBOC Discussion:** 7/10/18
- **BOC Action (Potential):** 8/28/18



# **TOWN OF DAVIDSON BOARD OF COMMISSIONERS**

## **CONSISTENCY STATEMENT**

### **PROPOSAL**

Davidson Planning Ordinance Section 17 Update – Watershed Text Amendments

### **PROPOSAL / REQUEST**

The proposed text amendments update/clarify standards; address persistent issues and inconsistencies; and remove inapplicable sections.

### **SUMMARY OF PETITION / PROPOSAL**

In March 2017, Mecklenburg County, our partner in administering the watershed ordinance – with oversight from the North Carolina Department of Environmental Quality (“NCDEQ”) – requested that the Town of Davidson: update/clarify standards; address persistent issues and inconsistencies; and remove inapplicable sections. The standards, in place since 1993, are designed to maintain clean water in Lake Norman by requiring vegetative buffers and limiting the amount of "built-upon-area" (“BUA”) placed on a lot.

The proposed amendments cover many topics; among the more prominent are:

- The addition of new definitions related to existing development, redevelopment, and the modification of the variance definitions to be clearer and aligned with relevant state law and regulations;
- The clarification that property must be contiguous, adjoining, or adjacent to be included in calculation of a project area’s BUA;
- The modification of the BUA averaging (formerly known as “Density Averaging”) program to (a) increase and clarify the Board of Adjustment’s discretion in deciding cases, and (b) express a preference for the types of proposals appropriate for this program.

### **CONSISTENCY STATEMENT**

In the opinion of the Board of Commissioners the Planning Ordinance, as amended and presented to this board for its review and comment, is consistent with: (a) the Davidson Comprehensive Plan, as adopted by the Board of Commissioners and amended from time to time; and, (b) all other officially adopted plans that are applicable to the Planning Ordinance.

The areas in which the recommended text changes to the Planning Ordinance are consistent with the Davidson Comprehensive Plan and all other officially adopted plans are as follows:

#### **Consistent with the Davidson Comprehensive Plan (August 2010):**

- a. ***Encourage Committed Civic Involvement & Responsibility, Goal 2 - Sustain and Promote More Resident Volunteerism and Involvement:*** This goal notes the importance of local advisory boards being more engaged and influential concerning short-term and long-term decisions. The proposed amendments are the product of extensive involvement on the part

of the Planning Board Ordinance Committee, which collaborated with staff in reviewing/revising the amendments beginning early in the process, and met with citizens individually and collectively (including hosting an open house) to solicit and incorporate their feedback. The proposed amendments thus reflect significant and meaningful citizen input.

- b. ***Enable Faithful Stewardship, Goal 3 - Sustain/Enhance Air & Water Quality:*** This goal recommends working with Mecklenburg County on regulations for water quality/conservation measures. It also states that residents could positively impact the environment by adapting their properties to implement water saving practices, such as those included in the proposed amendments (i.e. rain gardens, rain barrels/downspout modification, French drains). It lists the following as on-going initiatives to pursue: Protect ground/surface water; encourage rainwater capture/reuse in all new development; and, mitigate sources of groundwater contamination. The proposed amendments are the result of close collaboration with Mecklenburg County and further the initiatives listed above through a mix of land coverage and site design criteria.

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Adopted this 28th day of August, 2018.

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Signature/Date

Rusty Knox

Mayor



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**Agenda Title: Consider Approval of Appointments of Chairs for the Design Review Board and Planning Board/Board of Adjustment  
Planning Director Jason Burdette**

**Summary:** Due to recent chair vacancies for the Design Review Board and the Planning Board/Board of Adjustment, respective board bylaws and the Davidson Planning Ordinance require the chair of each board to be appointed by the Board of Commissioners. Bruce Barteldt is recommended for DRB and Matthew Dellinger is recommended for Planning Board/Board of Adjustment.

**Summary:**

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**ATTACHMENTS:**

Description	Upload Date	Type
📎 Agenda Memo - Advisory Board Appointment	8/23/2018	Cover Memo



## Consider Approval of Chairs for the Design Review Board and Planning Board

To: Davidson Board of Commissioners  
From: Jason Burdette, Planning Director  
Date: August 28, 2018  
Re: Advisory Board Chair Appointments

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### 1. OVERVIEW

The Design Review Board, Planning Board, and Board of Commissioners are citizen advisory boards that serve at the pleasure of the Board of Commissioners. Respective board bylaws and the Davidson Planning Ordinance require the chair of each board to be appointed by the Board of Commissioners. Current chairs Bob Lauer (DRB) and Mickey Pettus (PB) have both recently resigned. Bruce Barteldt is recommended for DRB and Matthew Dellinger is recommended for Planning Board/Board of Adjustment.

### 2. RELATED TOWN GOALS

- **Strategic Plan:** The Town of Davidson will have inclusive engagement with the community to encourage substantive, respectful, and open dialogue, increase participation, and foster a sense of belonging.
- **Core Value:** Citizens are the heart of Davidson, so town government will treat all people fairly, with courtesy and respect
- **Citizens served:** All citizens

### 3. OPTIONS/PROS & CONS

- **Pros:** Both potential chairs have experience serving in leadership capacities on their respective boards.
- **Cons:** Not naming a chair inhibits the boards ability to do operate efficiently.

### 4. FYI or RECOMMENDED ACTION

- **Recommended Action:** Approve the appointment of Bruce Barteldt as chair of the Design Review Board and Matthew Dellinger as chair of the Planning Board/Board of Adjustment.

### 5. NEXT STEPS

N/A



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**Agenda Title: Consider Approval of Art & Science Council (ASC) Advisory Council Appointments**

**Town Manager Jamie Justice**

**Summary:** The Arts & Science (ASC) seeks two Davidson citizens for its advisory council to represent the north/west region of Mecklenburg County. After reviewing the applications, the recommended appointments are Jacqueline Dienemann and Joyce Wynes, with Clayton Joe Young as the alternate. The appointment is for two (2) years ending on June 30, 2020.

**Summary:**

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**ATTACHMENTS:**

**Description**

**Upload Date**

**Type**

No Attachments Available



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**Agenda Title:** **Consider Approval for a Noise Ordinance Variance - Fall Fling at Davidson College**  
**Town Clerk Betsy Shores**  
**Summary:** Davidson College is requesting a noise ordinance variance for the Fall Fling during Homecoming Weekend on Saturday, September 15, 2018 from 10:00 p.m. - 1:00 a.m. on Old Tennis Court Lane.

**Summary:**

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**ATTACHMENTS:**

Description	Upload Date	Type
□ Davidson College Noise Ordinance Variance Request	8/14/2018	Cover Memo



August 3, 2018

Town of Davidson Board of Commissioners  
216 South Main Street  
Davidson, NC 28036

Dear Board of Commissioners:

As the advisor to the Davidson College Union Board, I work with student leaders to help them plan successful and safe events each year at the College. One of their signature events, Fall Fling, is an all-campus semi-formal and takes place during Homecoming Weekend. This event is held outside on Old Tennis Court Lawn because we do not have an indoor space to accommodate the number of attendees, both students and alumni who come back for Homecoming Weekend. This year, Fall Fling will be held on Saturday, September 15 from 10pm-1am. This year we are having a professional, local cover band perform during this event. Because the music from this event could go over the decibel limit of 60 dBa for the Town of Davidson's sound ordinance, we would like to request a variance for this event.

In addition to requesting the variance, we also plan to notify neighbors within a three-block radius of campus by placing notecards on their doors with a warning about the additional noise well in advance of this event. We are also happy to increase the area that we notify residents. Thank you for your consideration of this variance request and please let me know what questions you have.

Sincerely,

*Emily Eisenstadt*

Assistant Director for Programs- Alvarez College Union  
Davidson College



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**Agenda Title: Consider Approval to Direct Planning Board to Make a Recommendation within 30 Days on the Proposed DPO Text Amendments**  
**Planning Director Jason Burdette**

**Summary:** The Davidson Planning Ordinance requires that the Planning Board provide a recommendation to the Board of Commissioners within 30 days of the public hearing.

**Summary:**

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**ATTACHMENTS:**

Description		Upload Date	Type
□	Agenda Memo - Direct Planning Board to	8/21/2018	Cover Memo
	Make a Recommendation within 30 Days on the Proposed DPO Text Amendments		



## Davidson Planning Ordinance Section 18: Floodplain Ordinance Update

To: Davidson Board of Commissioners  
From: Planning Director Jason Burdette, AICP  
Date: August 28, 2018  
Re: Proposed Updates to Davidson's Floodplain Ordinance

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### 1. OVERVIEW

Per the Davidson Planning Ordinance, the Planning Board shall be given 30 days to provide a recommendation after any public hearing for a text or map amendment.

### 2. RELATED TOWN GOALS

Core Value: Davidson must be a safe place to live, work, and raise a family, so the town will work in partnership with the community to prevent crime and protect lives, property, and the public realm.

Core Value: Citizens must live in a healthy environment, so town government will protect watersheds, trees, air quality, and other elements of the town's ecology.

### 3. OPTIONS/PROS & CONS

Pros: The Planning Board serves as an advisory board to the Board of Commissioners on all matters of planning and zoning. Specifically, the board renders opinions and makes recommendations regarding the planning ordinance, land use plans, and development projects in accordance with the standards established in the Davidson Planning Ordinance.

Cons: If the PB does not provide a recommendation within 30 days, it shall be deemed to have approved the proposal.

### 4. FYI or RECOMMENDED ACTION

Approve the consent item directing Planning Board to make a recommendation within 30 days.

### 5. NEXT STEPS

The proposed text amendments will follow Section 14.19 of the Davidson Planning Ordinance for changes and amendments to the planning ordinance. The PB will provide a recommendation at the September 24<sup>th</sup> meeting. The Board of Commissioners may take action at a subsequent meeting (likely Oct. 23).



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**Agenda Title: Consider Approval of Appointment of Park at Beaty Street Task Force Member Parks and Recreation Director Kathryn Spatz**

**Summary:** To date, two citizens appointed to the Park at Beaty Street Task Force have resigned due to time commitments. This would appoint a new member from the original applicants. Frank Farina is recommended to be appointed.

**Summary:**

---

**ATTACHMENTS:**

Description	Upload Date	Type
▢ Agenda Memo - Approval of Appointment of Park at Beaty Street Task Force Member	8/24/2018	Cover Memo



## New Appointment for Park at Beaty Street Task Force

Date: August 28, 2018  
To: Davidson Board of Commissioners  
From: Kathryn Spatz, Parks and Recreation Director  
Re: Appointment of Frank Farina to Park at Beaty Street Task Force

---

### 1. OVERVIEW

At its March 13, 2018 meeting, the Board of Commissioners voted to create a task force to develop the town-owned land on Beaty Street as a park. On April 10, the Board of Commissioners formally adopted a resolution to begin the conceptual plan process for the park at Beaty Street, seeking applicants for a citizen task force, and approving a charge for the task force. The Board of Commissioners appointed 15 members to the task force at its May 8 meeting. In the past two months, two citizens appointed have had to resign due to time constraints and another has requested a hiatus for several months, again due to time commitments. The task force believes more additional members would be beneficial and requested to the Board of Commissioners reconsider the original applicants and make another appointment to replace one of the members who has had to resign.

### 2. RELATED TOWN GOALS

N/A

### 3. OPTIONS/PROS & CONS

Pro: the task force will have more members to help with work.

### 4. FYI or RECOMMENDED ACTION

We recommend the Board of Commissioners appoint Frank Farina to the Park at Beaty Street Task Force.

### 5. NEXT STEPS

If appointed, staff will contact Mr. Farina, welcoming him to the task force, cc'ing chair Denise Beall.



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**Agenda Title: Non-Profit Grant Allocations Process  
Parks and Recreation Director Kathryn Spatz**

**Summary:** Historically the Board of Commissioners asked the Livability Board to review the Non-Profit Grant applications submitted and make recommendations for allocation of \$50,000 appropriated for contributions.

**Summary:**

---

**ATTACHMENTS:**

Description		Upload Date	Type
▣	Agenda Memo - Non Profit Grant Funding Process	8/24/2018	Cover Memo
▣	Non-Profit Grant Funding Process	8/23/2018	Cover Memo



## Livability Board Presentation: Non Profit Grant Funding Process

Date: August 28, 2018

To: Davidson Board of Commissioners

From: Kathryn Spatz, Parks and Recreation Director

Re: Non Profit Grant Funding Process, Livability Board Presentation

---

### 1. OVERVIEW

The Board of Commissioners appropriated \$50,000 for non-profit grant funding in the adopted FY2019 budget but requested the Livability Board review the grant funding process and report to the board at its August 28 meeting on proposed changes.

### 2. RELATED TOWN GOALS

N/A

### 3. OPTIONS/PROS & CONS

N/A

### 4. FYI or RECOMMENDED ACTION

We recommend the Board of Commissioners approve the Livability Board's plans and the Livability Board begin review the applications for 2018.

### 5. NEXT STEPS

If approved, the Livability Board will review the 15 applications received prior to the July 31 deadline and make a recommendation to the Board of Commissioners for action at its October 23 meeting.

# Non-Profit Grant Funding Process

Presented By: Town of Davidson Livability Board

August 28, 2018

# Historical Perspective

- Historically \$50,000 in funding is allocated through grant application process to non-profit organizations within the town each year.
- Prior to 2016, recommendations made to BoC by citizen cmte comprised of past Jack Burney Award recipients.
- In 2016, the BoC changed the process and asked the Livability Board to screen and develop a recommendation for funding allocations that could then be submitted to the BoC for consideration.
- Livability Board followed this process in 2016 and 2017.
- Historically 8 – 12 organizations have requested funding per year.

# Current Process

**April** – Town announces the beginning of the application process to submit requests for funding. Note: Normally the money is not to be used to fund general operations.

**May** – Application window closes and Cindy Reid reviews to ensure minimum requirements set by the BoC are satisfied for all applications.

**May** – Filtered applications are forwarded to Kathryn Spatz who reviews and further screens to account for any other known special circumstances that may impact funding recommendations. For example, funding is already provided in another area of the town budget.

**June** – Kathryn and the Livability Board Chair review the applications and create an initial draft recommendation, taking into account the nature of the request, scope of impact to the community, existing funding sources, and historical funding.

**June** – The recommendation, along with all filtered applications, are sent to the Livability Board for review. Historically, they have this information 2 – 3 weeks ahead of the meeting.

**July Livability Board Meeting** – The recommendation is discussed at the meeting, changes are incorporated based on feedback and a final recommendation is created and approved by the Livability Board.

**July/August BoC Meeting** – The recommendation is made to the BoC for their decisioning.

# Proposed Changes:

PROPOSED CHANGE	RATIONALE	DATE EFFECTIVE
<b>Simplification</b> of Non-Profit Grant Application	For the amount of money that is allocated, the time required to complete the application is excessive.	2019
<b>Focus funding</b> recommendations solely on the project request, without regard for historical funding amounts.	Increase impact of non-profit funding on Town.	2018
Require each funding recipient organization to submit a <b>“testimonial”</b> outlining what was done with the funding and the community benefit.	Clearly show to Town residents the impact of the non-profit grants.	2018
Continue to based funding allocation on <b>project-based requests</b> , as opposed to operating fund requests. Align recommendations to Strategic Plan.	Provide BoC funding flexibility, eliminate dependency of non-profits on funding, and be able to clearly articulate the funding benefits.	Ongoing
<b>Change timing</b> of funding recommendation to BoC from August to September.	Eliminate process occurring in the middle of the summer vacation time.	2018
<b>Expand group</b> that makes the draft recommendation to the Livability Board.	Increase participation in process and promote greater thought diversity in initial recommendation.	2018

# Next Steps

1. Application process for 2018 closed on 7/31. The Livability Board will review and make funding recommendations to the BoC by October.
2. The organizations that receive funding will be required to provide a “testimonial” regarding how the funds were used and the community benefit by 6/30/2019, in order to be considered for future funding.
3. The Livability Board will begin the process of simplifying the Non-Profit Grant Application for 2019.

# Example of Last Year's Funding Allocation

Non-Profit Funding History																		
	FY2012-2013		FY2013-2014		FY2014-2015		FY2015-2016			FY2016-2017				FY2017-2018				
Name	Requested	Funded	Requested	Funded	Requested	Funded	Requested	Funded	% of ask	Requested	Recommended by Livability Board	% of ask	Funded	Requested	Recommended by Livability Board	% of ask	Funded	COMMENTS
Ada Jenkins	\$20,000	\$14,286	\$20,000	\$13,000	\$20,000	\$13,000	\$20,000	\$11,000	55%	\$20,000	\$12,500	63%	\$12,500	\$20,000	\$12,500	62.5	\$0	Same as last year.
Davidson Housing Coalition	\$15,000	\$10,714	\$15,000	\$11,000	\$20,000	\$11,000	\$15,000	\$12,500	83%	\$20,000	\$16,000	80%	\$16,000	\$20,000	\$15,000	75	\$0	Almost same funding.
Davidson Lands Conservancy	\$10,000	\$7,143	\$10,000	\$8,000	\$8,000	\$8,000	\$10,000	\$8,000	80%	\$10,000	\$10,000	100%	\$10,000	\$15,000	\$10,000	66.6667	\$0	Same funding
DavidsonLearns	\$0	\$0	\$1,000	\$1,000	\$2,000	\$2,000	\$0	\$0		\$2,000	\$1,000	50%	\$1,000	\$2,000	\$1,000	50	\$0	Same funding.
Davidson LifeLine	\$0	\$0	\$0	\$0	\$460	\$500	\$10,000	\$5,000	50%	\$10,000	\$7,500	75%	\$7,500	\$0	\$0	#DIV/0!	\$0	No request
Davidson Village Network	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$1,000	\$1,000	100%	\$1,000	\$6,000	\$3,000	50	\$0	Starting up. Funding for launch marketing.
LaunchLKN (formerly PiES)	\$0	\$0	\$1,000	\$1,000	\$1,000	\$1,000	\$2,500	\$2,000	80%	\$12,720	\$2,000	16%	\$2,000	\$5,000	\$2,000	40	\$0	Same as last year.
Music @StAlbans	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$0	\$0		\$0	\$500	\$500	100	\$0	New request. Nominal ask.
Davidson Cornelius Child Development Center	\$15,000	\$7,143	\$15,000	\$6,000	\$0	\$0	\$0	\$0		\$0	\$0			\$25,000	\$4,000	16	\$0	New request.
Davidson Community Players	\$0	\$0	\$10,000	\$0	\$3,500	\$0	\$0	\$0		\$0	\$0			\$0	\$0	#DIV/0!	\$0	
Davidson Green School	\$0	\$0	\$1,000	\$0	\$0	\$0	\$0	\$0		\$0	\$0			\$0	\$0	#DIV/0!	\$0	
Police Officer Relief Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$1,000	\$1,000		\$0	\$0			\$5,000	\$0	0	\$0	
E2D														\$4,750	\$2,000	42.1053	\$0	New request. Small portion of budget. Other funding sources.
Total	\$60,000	\$39,286	\$73,000	\$40,000	\$54,960	\$35,500	\$58,500	\$39,500	68%	\$75,720	\$50,000	66%		\$103,250	\$50,000	48.4262	\$0	



---

**Agenda Title: Comprehensive Plan Consultant Recommendation and Approval  
Public Information Officer Cristina Shaul and Clarion Associates Project Manager Leigh Anne King**

**Summary:** A comprehensive plan is the leading policy document and tool to help communities create a vision and guiding principles for decision-making for their town. The comprehensive plan's purpose is to directly inform decisions that we make as a community. It does so by helping us to understand our historical context, identify current or anticipated issues, evaluate options for how to best proceed, and establish a set of policies to accomplish our aims. The board of commissioners identified the comprehensive plan as a priority in their 2018-2019 Strategic Plan.

To assist with public engagement, visioning, and plan composition, an experienced consultant, Clarion Associates, was selected by a commissioner-appointed committee of citizens, staff, advisory board representatives, and elected officials.

At the August 7 board of commissioners meeting, the committee recommended Clarion Associates as the consultant for this project. The Davidson Board of Commissioners requested a visit from Clarion Associates at the August 28 meeting before considering approval.

The Comprehensive Plan RFP/Consultant-Selection Committee comprised of citizens, commissioners, advisory board representatives, and staff recommend the approval of Clarion Associates as the consultant to help the Town of Davidson facilitate our comprehensive plan process.

**Summary:**

---

**ATTACHMENTS:**

<b>Description</b>	<b>Upload Date</b>	<b>Type</b>
❑ Agenda Memo - Comprehensive Plan Consultant Recommendation	8/24/2018	Cover Memo
❑ Clarion Presentation 08-28-18	8/24/2018	Cover Memo
❑ Matt Goebel Bio 08-28-18	8/24/2018	Cover Memo
❑ BA-2019-07	8/22/2018	Cover Memo



## Comprehensive Plan Consultant Recommendation

Date: August 28, 2018

To: Davidson Board of Commissioners

From: PIO Cristina Shaul, Co-Project Leader for Comprehensive Plan project

Re: Comprehensive Plan Consultant Recommendation

---

### 1. OVERVIEW

A comprehensive plan is the leading policy document and tool to help communities create a vision and guiding principles for decision-making for their town. The comprehensive plan's purpose is to directly inform decisions that we make as a community. It does so by helping us to understand our historical context, identify current or anticipated issues, evaluate options for how to best proceed, and establish a set of policies to accomplish our aims. The board of commissioners identified the comprehensive plan as a priority in their 2018-2019 Strategic Plan.

The town's comprehensive plan was completed in 2010; most communities update or create a new plan every five to ten years. This is especially true for communities in high-growth areas like the Charlotte metropolitan region.

This will be a community-centered process. The comprehensive plan process entails an extended community conversation that intentionally engages all stakeholders -- residents/citizens, neighborhoods, businesses, the college, town government, non-profits, and institutions.

To assist with public engagement, visioning, and plan composition, an experienced consultant -- Clarion Associates -- was selected by a commissioner-appointed committee of citizens, staff, advisory board representatives, and elected officials.

At the August 7 board of commissioners meeting, the committee recommended Clarion Associates as the consultant for this project. The Davidson Board of Commissioners requested a visit from Clarion Associates at the August 28 meeting before considering approval.

Related documents:

PowerPoint from Clarion Associates

Bio sheet on Clarion Team Member Matt Goebel

Budget Amendment 2019-07

## 2. RELATED TOWN GOALS

- 2018-2019 Strategic Plan priority: “Land Use Strategy: Begin Comprehensive Plan process”
- 2010 Comprehensive Plan: “The Comprehensive Plan should be updated at least once every ten years.” (pg. 14)

## 3. RECOMMENDED ACTION

The Comprehensive Plan RFP/Consultant-Selection Committee comprised of citizens, commissioners, advisory board representatives, and staff recommend the approval of Clarion Associates as the consultant to help the Town of Davidson facilitate our comprehensive plan process.

Potential motion language: I move to authorize Town Manager Jamie Justice to proceed with signing a contract with Clarion Associates and authorize the approval of Budget Amendment 2019-07 to appropriate the amount of \$85,000 for the first phase of this comprehensive plan.

## 4. PROS & CONS

Consider approval on August 28:

Pros: 1) The Town of Davidson should feel confident that an extremely reputable and capable firm was hired to facilitate the comprehensive plan process, after thorough work by a team of dedicated citizen/commissioner/staff committee members for the past several months.

2) The Town of Davidson will be able to commence the comprehensive plan process in September, since this is such a high priority.

Cons: Not approving this consultant will delay the comprehensive plan process.

## 5. NEXT STEPS

- If this recommendation is approved, we will proceed to the contract stage with the consultant. We will begin the comprehensive plan process in September, and based on the preliminary schedule, will work through late 2019/early 2020 until the new comprehensive plan is approved.
- We will also begin the application process to select citizens to serve on the Plan Advisory Group.



North Carolina

# Comprehensive Plan

**CLARION**

planning  
**NEXT**  
moving communities forward.

 **DPFG**  
DEVELOPMENT PLANNING & FINANCING GROUP, INC.

August 28, 2018

# Our Team



**CLARION**



**ENGAGEMENT STRATEGIES  
COMMUNITY DESIGN CHARRETTE  
CHARACTER-BASED DESIGN APPROACH**

Jamie Greene, AIA, FAICP  
Sarah Bongiorno, LEED AP BD+C

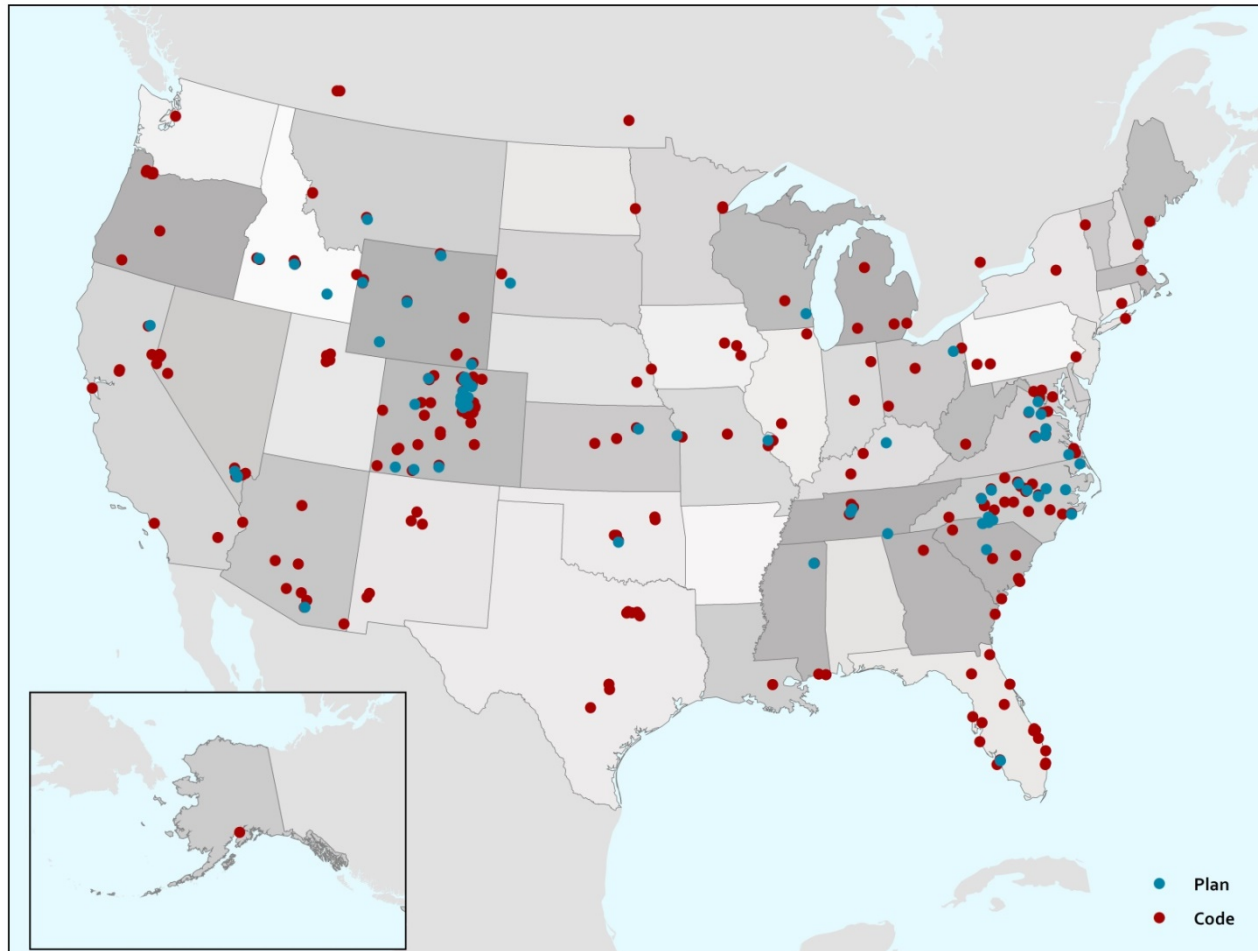
**PROJECT MANAGEMENT | FACILITATION &  
ENGAGEMENT | POLICY DEVELOPMENT  
IMPLEMENTATION STRATEGIES**

Leigh Anne King, AICP, LEED AP  
Roger Waldon, FAICP  
Nate Baker, AICP, CNU  
David Henning, Esq.  
Chris Peterson



**ECONOMIC AND  
FISCAL ANALYSIS**  
Lucy Gallo, CGMA

# Our Experience



200+ Community Codes | 100+ Community Plans  
Dozens of award-winning plans and codes

## Relevant Charlotte Area Experience

- Mecklenburg Livable Communities Plan
- Mooresville, NC – Code and Plan (underway)
- Kannapolis, NC – Comprehensive Plan
- Matthews, NC – Sector Plan
- Iredell County, NC – Comprehensive Plan
- Union County, NC – Comprehensive Plan
- Centralina COG- Connect Our Future
- Rock Hill, SC – Comprehensive Plan, Growth Management Plan, & Zoning Code

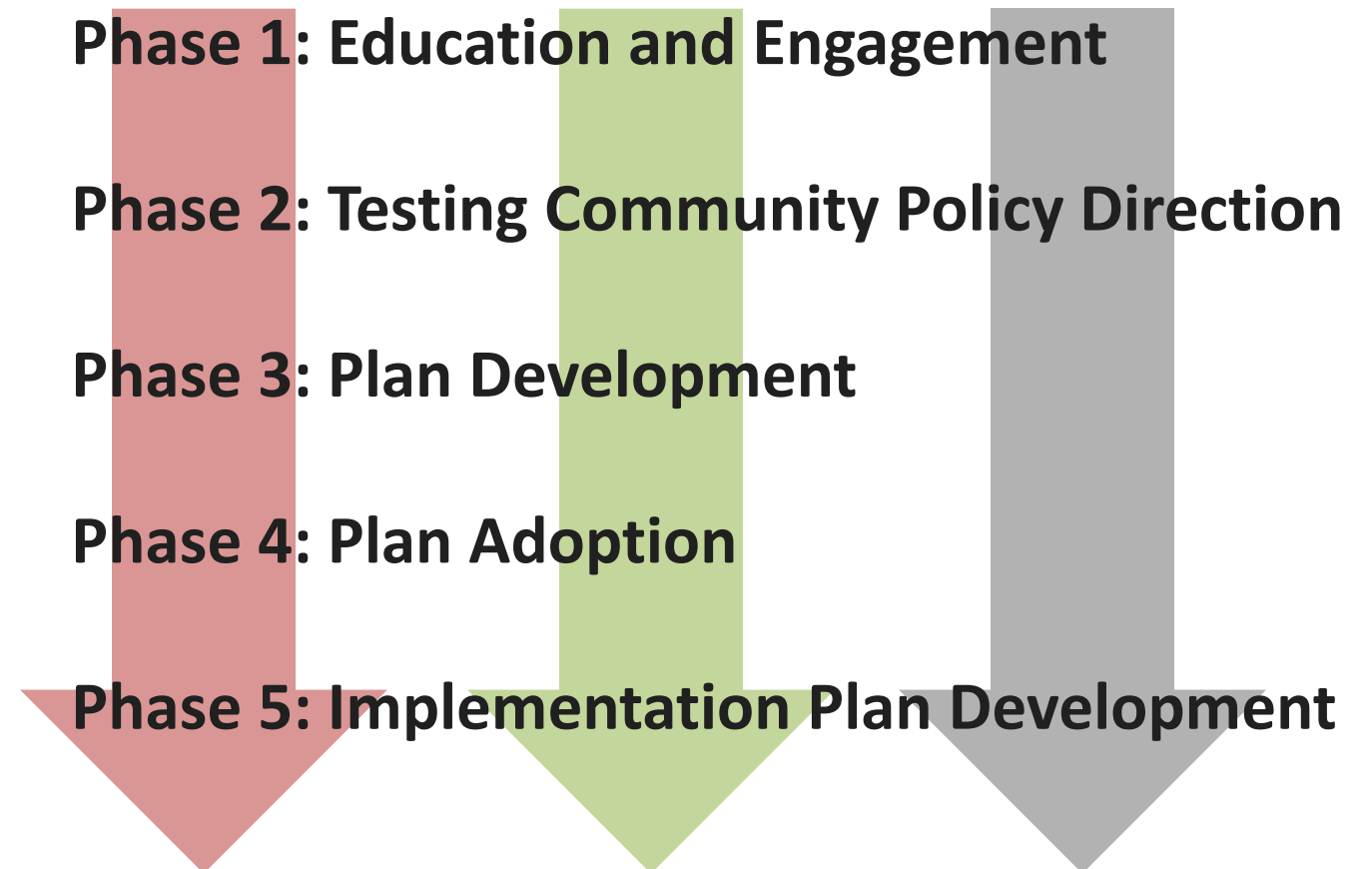
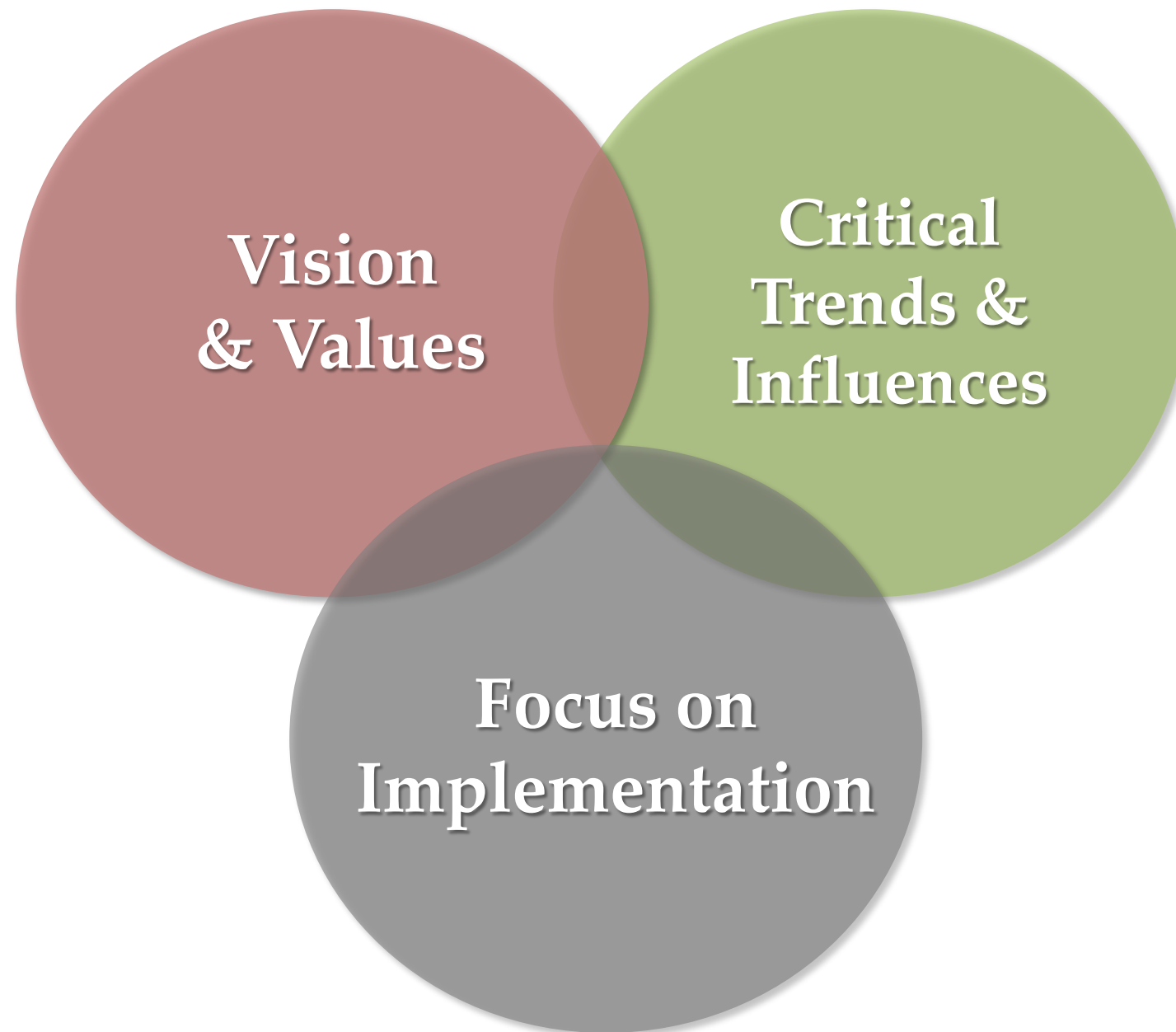
# Team's Special Practice Areas

- Public Outreach and Engagement
- Community Facilitation
- Comprehensive and Land Use Planning
- Strategic Planning
- Land Use and Design Regulations
- Historic Preservation and Neighborhood Conservation

# Key Components of a Successful Planning Project

- Conduct an **open and democratic** process
- **Tailor** to the needs and circumstances
- Understand the **community's culture**
- Purposefully **building trust** through the process
- Identify **key community questions** early in process
- **Agile project management approach** to address unknowns
- Continual **resource management**
- Focus on the **end game**

# Core Elements of Planning Approach



# Approach to Impactful Engagement

**“Community-based...from start to finish”**

- Preparation

*Building the Foundation*

- Phase 1

*Conducting the Groundwork*

- Phase 2

*Establishing Direction*



# Phase 1: Education and Engagement

## Key Deliverables

### Snapshot Report

- Story Telling of Community Influencers
- Today and Tomorrow
- Using Facts and Trends
- Presented with Graphics and Maps

### Public Engagement & Stakeholder Summaries

- Documentation of Events and Inputs
- Distillation of Key Input Themes
- Follow up Questions

*Engagement Focus:  
Exploring Our General  
Planning Principles*

1

- 1.1 Project Management Plan
- 1.2 Staff Kickoff Meeting & Reconnaissance
- 1.3 Gather Relevant Data and Plans
- 1.4 Prepare Brand Identity
- 1.5 Recruit Plan Advisory Committee
- 1.6 Finalize Membership of Committees
- 1.7 Prepare Communications Plan
- 1.8 Launch Project Website
- 1.9 Engagement Part #1
- 1.10 Engagement Summary Report
- 1.11 Determine Analysis Priorities
- 1.12 Develop Community Snapshot Report

TASKS

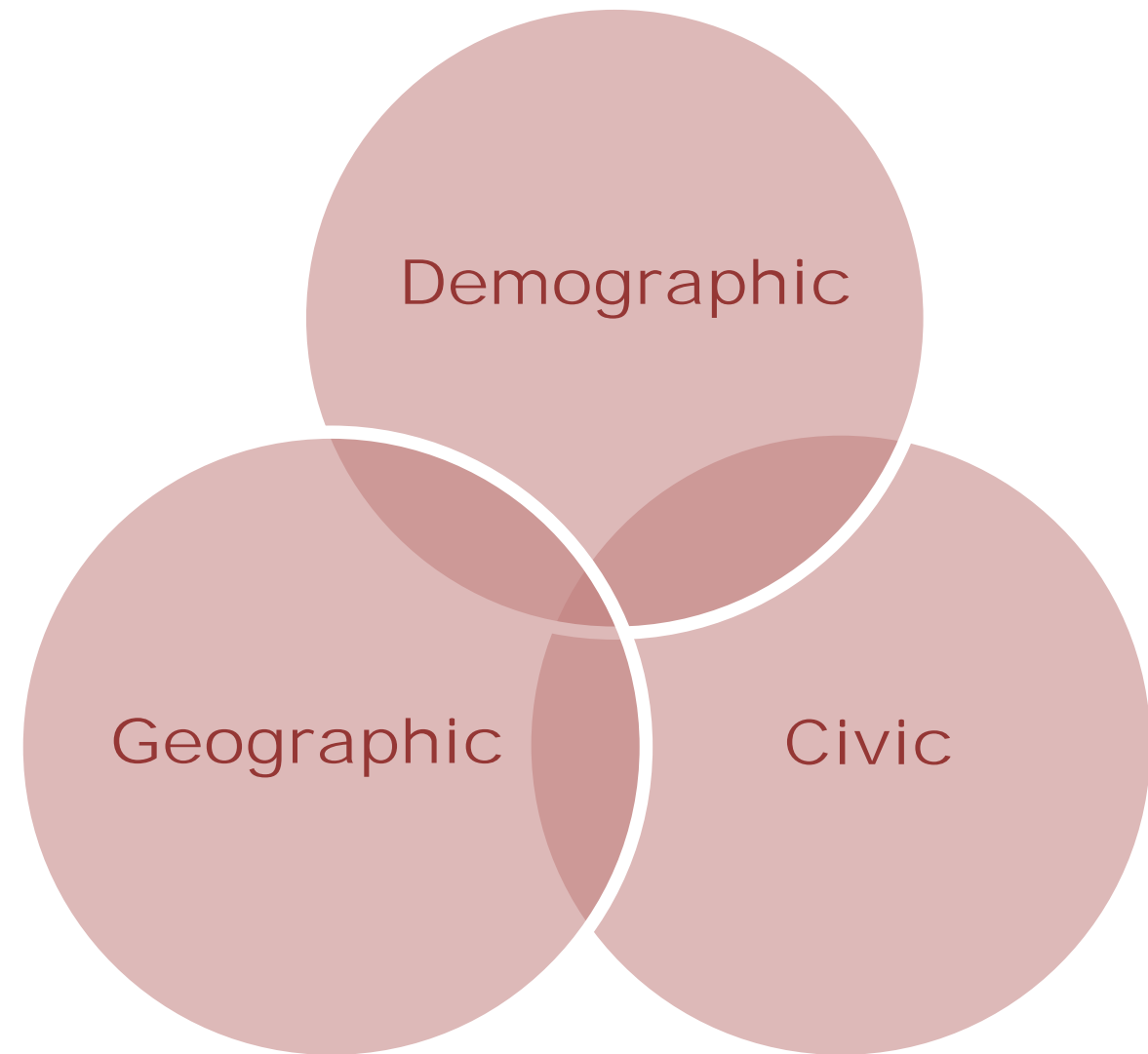
# Preparation

- Establish Advisory Group
- Prepare Communication Plan
- Prepare Outreach Plan
- Build online tools
- Address logistics



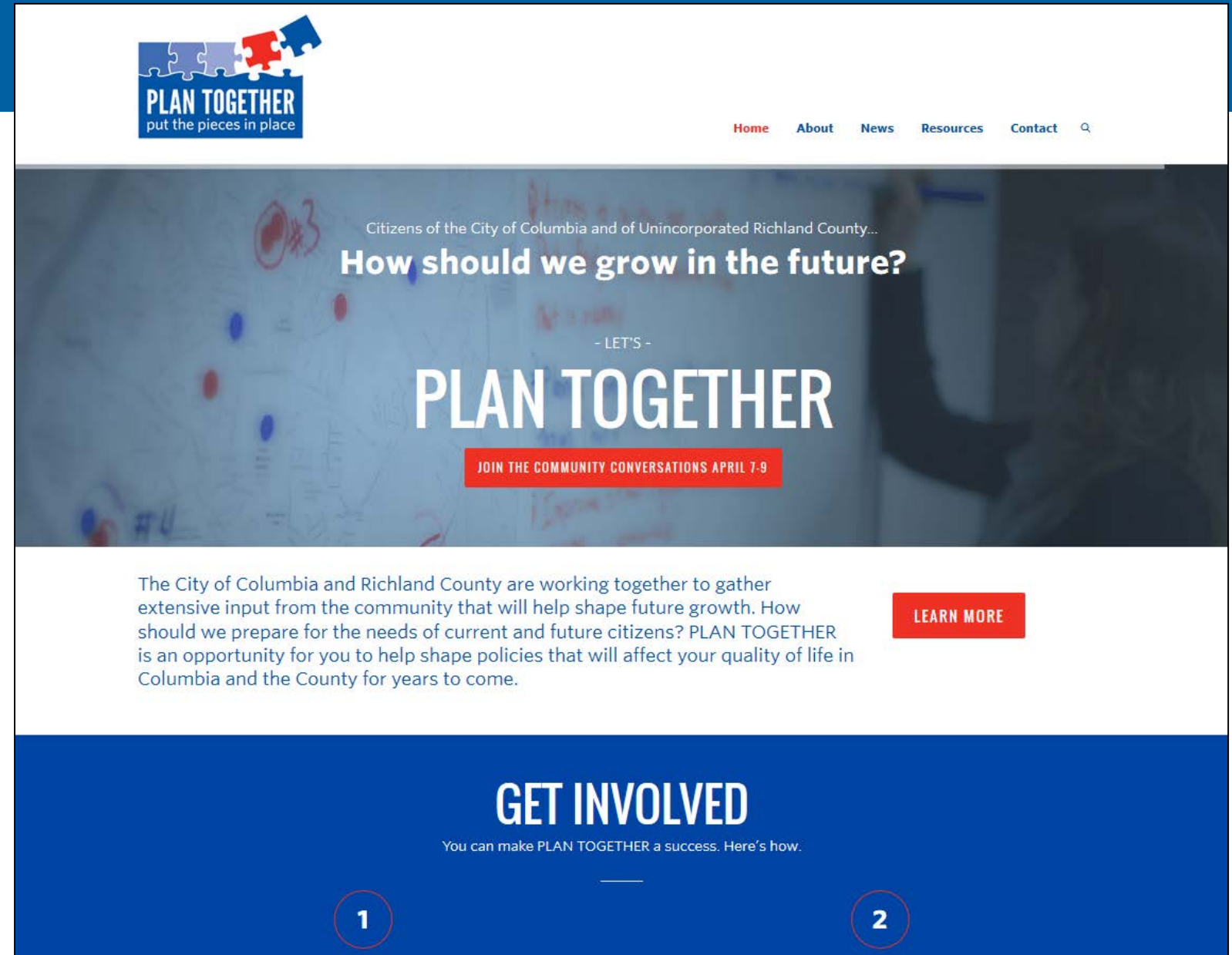
# Outreach

- Delivers people to the process
- Requires energized networks
- Marketing by word-of-mouth marketing



# Online Tools

- Supplement face-to-face
- Provide information
- Gather insights, including map-based



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WESTERVILLE .OREG



# An Effective Group

- First step in inclusive engagement
- Representative of the larger community
- Open-minded attitude
- Helpful in execution
- Hopeful about the future



**imagine**

WESTERVILLE  
COMMUNITY PLAN

We are...  
Shaping  
Tomorrow

westerville.org

Westerville is...

Westerville is...

Westerville is...

Westerville is...

Westerville is...

Westerville is...

Westerville is...

Westerville is...





# Phase 2: Testing Policy Direction

## Key Deliverables

### Public Engagement Summary

- Documentation of Events and Inputs
- Responses to Policy Choices and Scenarios
- Highlight Common Ground
- Identification of Diverging Positions

*Engagement Focus:  
Conversations on Davidson's Future*

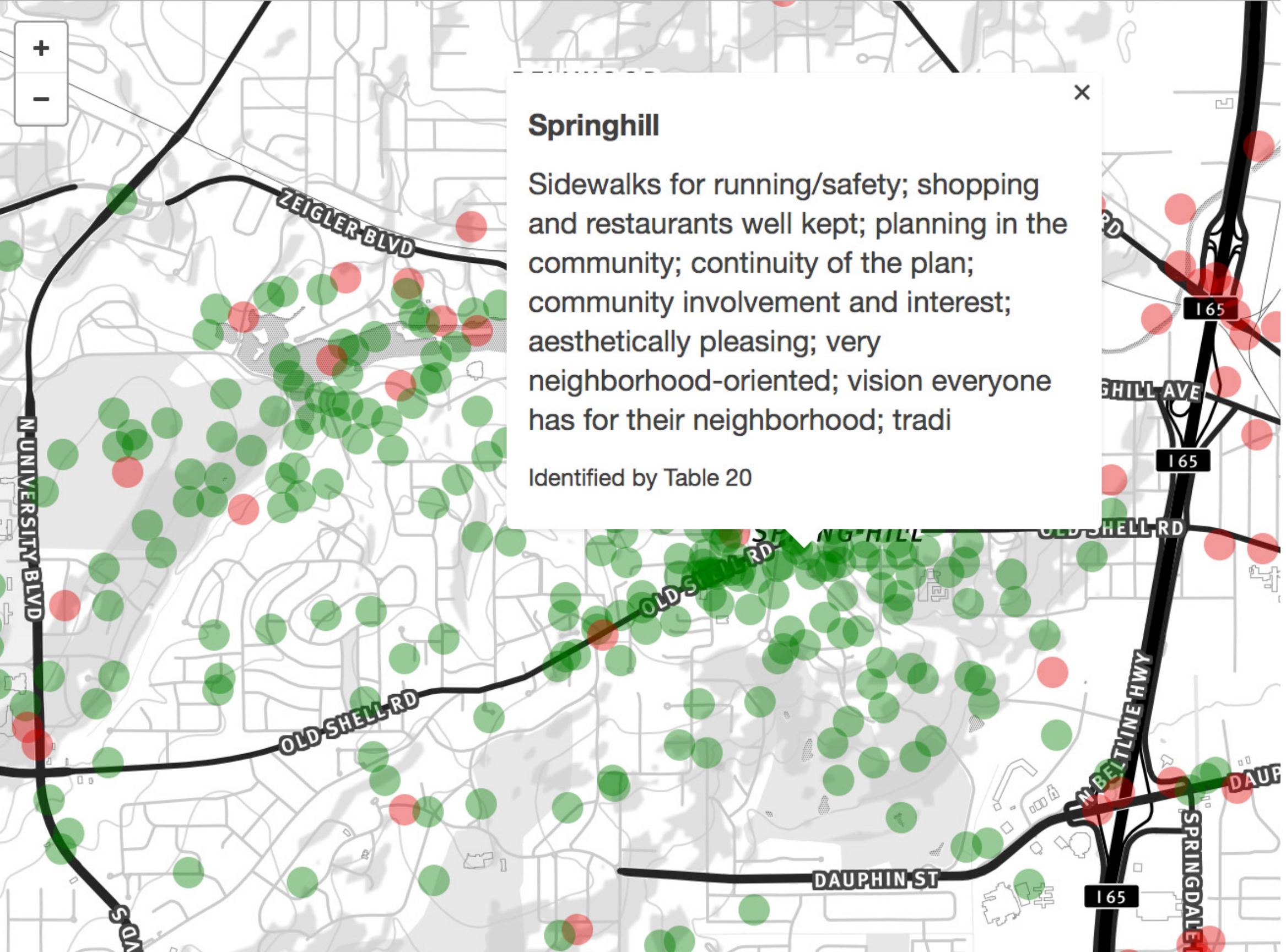
2

*Engagement Focus:  
Shaping Davidson's Future*

3

2.1 Community Stakeholder Interviews  
2.2 Plan Advisory Committee Meetings (2)  
2.3 Engagement Part #2  
2.4 Engagement Part #3  
2.5 Report on Shaping Davidson's Future  
2.6 Prepare Updated Content for Website/Social Media

TASKS



# Springhill

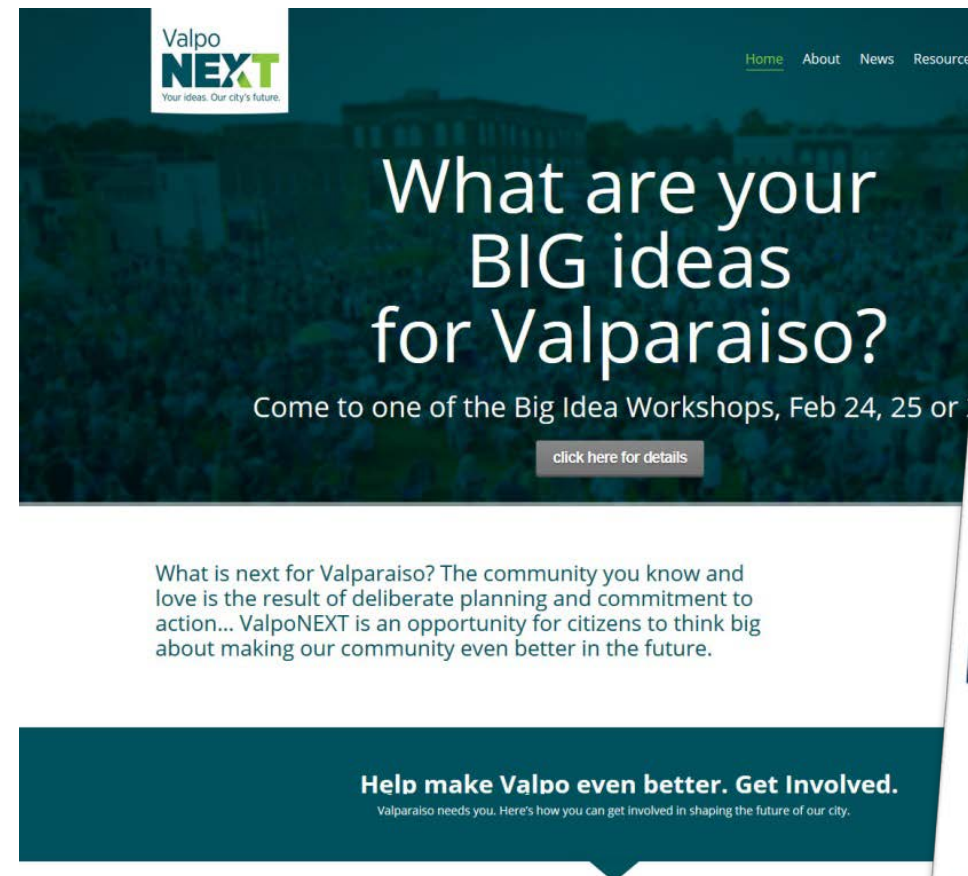
Sidewalks for running/safety; shopping and restaurants well kept; planning in the community; continuity of the plan; community involvement and interest; aesthetically pleasing; very neighborhood-oriented; vision everyone has for their neighborhood; tradi

Identified by Table 20



# Communication

- Develop motivating messages
- Prepare graphic identity
- Deploy web-based tools
- Utilize media



# Phase 3: Plan Development

## Key Deliverables

### Comprehensive Plan

- Vision and preferred growth plan
- Explicit policy direction and defining of policy intent
- Any potential updates to General Planning Principles
- Character-based land use plan approach

### Plan Drafts

- Staff Review
- Plan Advisory Committee
- BOC / Planning Board

*Engagement Focus:  
Present Draft Plan to Leadership*

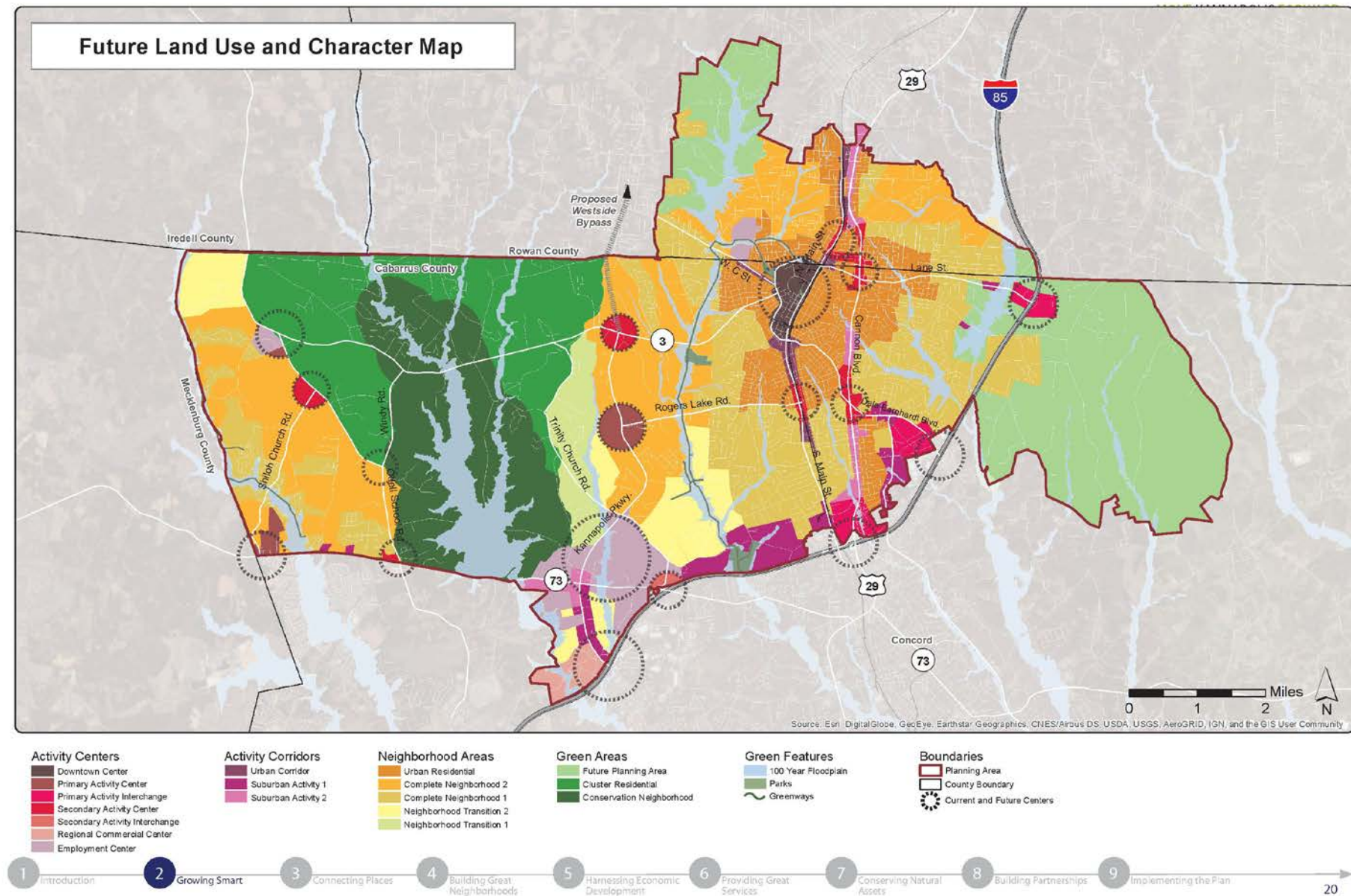
- 3.1 Develop Formal Outline for Plan
- 3.2 Staff Work Session to Refine Planning Area Elements
- 3.3 Prepare Policy Framework
- 3.4 Prepare First Public Review Draft of Plan
- 3.5 Present Draft Plan to Advisory Committee
- 3.6 Prepare Public Review Draft of Plan
- 3.7 Joint BOC/PB Work Session to Present Plan
- 3.8 Prepare Updated Content for Website/Social Media

TASKS

# Character-Based Approach

## Character-Based Approach

- Key Elements of Character
- Land Uses
- Ranges for Dimensional Standards
- Examples of Preferred Designs
- Illustration of General Site Design
- Articulation of Critical Defining Policies



# Phase 4: Plan Adoption (Staff Led)

## Key Deliverables

### Comprehensive Plan Adoption Assistance

- Public Hearing Draft
- Assistance Preparing Edits / Modifications During Adoption Process

#### *Engagement Focus: Adoption of Plan*

- 4.1 Prepare Public Hearing Draft
- 4.2 Assist Town staff with Plan Adoption
- 4.3 Prepare Updated Content for Project Website/Social Media

TASKS

# Phase 5: Implementation Guidebook

## Key Deliverables

### Implementation Guidebook

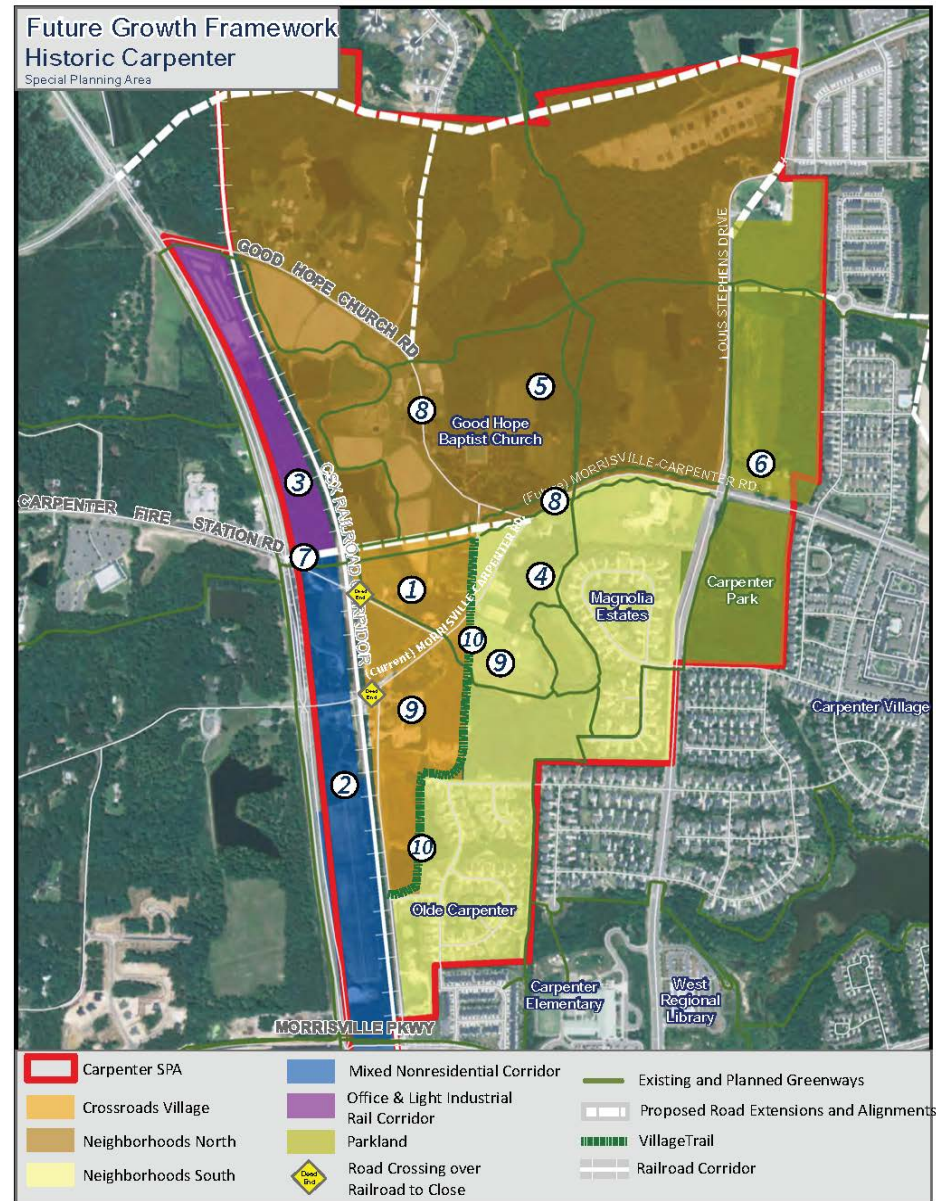
- Alignment with Town's Strategic Plan
- Priorities for Action
- Process for Plan Implementation and Monitoring

*Engagement Focus:  
Inputs for Implementation Guidebook*

5.1 Town Staff Plan Implementation Work Session  
5.2 Staff Review Draft of Implementation Guidebook  
5.3 Public Review Draft of Implementation Guidebook

TASKS



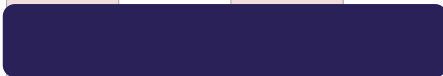


# Getting Results



## Planning With the End in Mind

- Systems Based Planning to Consider Interconnections Between Topics
- Policy Direction that is Clear and Addresses Tradeoffs
- Policies that Translate to Action
- Character-Based Planning that Provides Clear Direction
- Strategic Implementation Approach that Identifies Key Initiatives
- Implementation Plan that Aligns with Annual Budget and CIP Processes

# Our Approach

PHASE		2018				2019													
		SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT			cont.	
1	Education and Engagement																PAG	Plan Advisory Group	
2	Testing Policy																IE	Public Intercept Events	
3	Plan Development																PW	Public Workshop	
4	Plan Adoption																SWS	Staff Work Sessions	
5	Comprehensive Plan Implementation Guidebook																JWS	Joint Work Session	
	Project Management Meetings	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	Project Management Meetings
	Community Outreach Engagement		PAG IE	IE	PAG	PAG PW		PW	PAG	SWS	PAG	PAG	PAG JWS		SWS				



Davidson, North Carolina

*A small vibrant, historic, college town.*



## MATT GOEBEL, AICP

### Director

#### Education

Juris Doctor and  
Master of Regional Planning  
University of North Carolina at Chapel Hill

Bachelor of Arts (Plan II Honors)  
University of Texas at Austin  
Colorado State University  
Bachelor of Arts, History

#### Professional History

Clarion Associates, LLC  
Partner and Vice President  
2001 – present

Associate, 1997-2000  
Professor David R. Godschalk  
Research Assistant, 1993-1997

#### Professional Associations

American Institute of  
Certified Planners  
  
Denver, Colorado, and American Bar  
Associations Member

#### Publications

*Rules that Shape Urban Form.* American  
Planning Association, PAS 489/490, 2012.  
(with Donald Elliott and Chad Meadows)

*Aesthetics, Community Character, and the  
Law.* American Planning Association,  
Planning Advisory Service 489/490, 2000.  
(with Christopher J. Duerksen)

*Natural Hazard Mitigation: Recasting  
Disaster Policy and Planning.* Washington,  
D.C.: Island Press, 1999. (with David R.  
Godschalk et al.)

Matthew Goebel is a planner and attorney in the Denver office of Clarion Associates, and a Director of the firm. Mr. Goebel has extensive national experience in historic preservation and design guidelines. Matt works principally in the areas of planning and zoning, growth management, and historic preservation. He is co-author of *Aesthetics, Community Character, and the Law*, and *The Rules that Shape Urban Form*, both published by the American Planning Association. Matt has researched, written, and edited numerous cultural resource assessments for environmental impact statements and historic resources survey reports, and authored or co-authored eight National Register nominations. He has worked with a wide variety of cultural resources, including historic districts, rural landscapes, military bases, and Civil War battlefields.

### Representative Major Projects

#### Historic Preservation Plans/Studies/Guidelines

- **Texas** | San Antonio, McAllen, Austin, Dallas
- **Arizona** | Buckeye
- **Colorado** | Fort Collins, Manitou Springs, Statewide Study of the economic benefits of historic preservation, Statewide Study on the benefits of archeology
- **California** | Pasadena
- **Michigan** | State of Michigan
- **North Carolina** | Morrisville
- **Utah** | Salt Lake City
- **Pennsylvania** | Trail Towns

#### Land Development Regulations

- **Alaska** | Anchorage
- **Arizona** | Buckeye, Oro Valley, Sedona, Tucson
- **California** | Pasadena, Sacramento County
- **Colorado** | Buena Vista, Carbondale, Englewood, Erie, Frisco, Garfield County, Glenwood Springs, Lake County, Longmont, Mesa County, Northglenn, Pagosa Springs, San Miguel County
- **Nevada** | Henderson, Sparks
- **New Mexico** | Santa Fe, Silver City
- **New York** | Marcy, Syracuse
- **North Carolina** | Apex, Cary, Charlotte, Morrisville
- **Tahoe Regional Planning Agency**
- **Texas** | Arlington, Austin, Cedar Hill, Denton, Irving, Rowlett, San Antonio



## Project References

This section highlights relevant project experience that demonstrates Clarion Associates ability to provide exceptional leadership in the evaluation and development of historic preservation plans and regulations.

### Fort Collins, Colorado | Review of Historic Preservation Policies, Codes, and Processes



In 2017-2018, Clarion worked with the City of Fort Collins, Colorado, to examine the city's historic preservation codes and processes and present recommendations for improvements. The City of Fort Collins has nearly 250 local landmarks, three local historic districts, and many additional properties designated at a state or national level. A review of best practices in peer cities nationwide was completed to compare the Fort Collins preservation codes and processes to those in other cities. The research primarily focused on landmark designation, design review of historic resources, and demolition review, as well as identifying and reviewing compatible infill development. The final report documented the strengths and weaknesses of the Fort Collins' historic preservation program, identified major recommendations based on best practices research, and provided a thorough list of suggested implementation strategies.

#### CONTACT INFORMATION

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(970)224-6078  
[kmcwilliams@fcgov.com](mailto:kmcwilliams@fcgov.com)

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## State of Colorado | Economic Benefits of Preservation: 2017 Update



In 2017, Clarion Associates conducted a third update to an ongoing study for the State of Colorado that examined the economic and other benefits of various historic preservation activities in Colorado. The initial iteration of this project was selected as a recipient of the Colorado Historical Society's Stephen H. Hart Award in 2003 for "outstanding achievement in preserving Colorado's cultural heritage." All editions of the study have involved extensive data collection and analysis of economic impacts in the areas of historic building rehabilitation projects, grants awarded by the State Historical Fund, and heritage tourism. Another key feature of the project included an examination of the trends and effects of local historic designation on property values. The study has focused on how preservation has been used as an economic development tool to create jobs and generate revenue throughout the state. The 2011 version of the explored how various historic preservation projects in Colorado have bolstered community sustainability by enhancing economic vitality, environmental stewardship, and cultural resources. The most recent 2017 update focused on place-making and how preservation is playing a role in a "changing Colorado" in areas such as changing demographics, changing workplaces, and a changing climate.

### CONTACT INFORMATION

Cindy Nasky  
Colorado Historical Foundation  
303.894.2503  
[supporthistory@cohf.org](mailto:supporthistory@cohf.org)

**In the fall of 2018, Clarion will begin a project in conjunction with History Colorado and the Crow Canyon Archaeological Center to study the economic and other benefits of archaeology and cultural landscape preservation throughout the State of Colorado.**

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## San Antonio, Texas | Historic Design Guidelines and Standards



San Antonio, Texas, is the seventh largest city in the United States with a land area of about 412 square miles. Clarion Associates, in collaboration with Austin-based Hardy Heck Moore, led a process to develop a comprehensive set of guidelines and standards for the city's 27 locally-designated historic districts as well as all historic districts designated in the future. The city's historic districts vary in size from three parcels total to seven miles long. While the new standards and guidelines are organized to function as a cohesive document, each major section is formatted as a stand-alone document with a cover page and table of contents. The document is highly visual containing photographs, illustrations, and labeled drawings. The guidelines and standards are organized into four major categories including Exterior Maintenance & Alterations, Additions, New Construction, Site Elements, and Signage. This document also includes a brief history of San Antonio's historic districts as well as a description of existing architectural styles with an associated illustrated glossary. The Historic Design Guidelines and Standards were adopted by City Council in November 2012.

### CONTACT INFORMATION

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## State of Colorado | The Benefits of Colorado's Scenic and Historic Byways



Clarion Associates, working in collaboration with the Colorado Scenic and Historic Byways Program, prepared a report illustrating the benefits of scenic byways and the Scenic and Historic Byways Program in celebration of its 25th anniversary. The program features a number of touring routes throughout the state that offer travelers interpretation and identification of key points of interests, as well as services along safe and accessible travel ways while also helping to protect historic monuments, significant viewsheds, and important environmental resources. The main focus of the report was on the economic benefits the program generates for both local communities and the state, drawing from economic studies and tools developed for Colorado or other byway programs in the United States. The impacts examined included those related to visitor traffic, visitor expenditures, public investments, and tax revenue, among others. The report supplemented this analysis with a number of case studies highlighting the experiences, successes, and challenges faced by a number of scenic and historic byways across Colorado. A discussion on next steps and recommendations for future efforts concluded the report. Key recommendations included improving the collection and reporting of economic data specific to the byways and enhancing collaborations and partnerships among the stakeholders involved in planning and sustaining the Scenic and Historic Byways Program.

### CONTACT INFORMATION

Lenore Bates

Colorado Scenic and Historic Byways Program Manager

Colorado Department of Transportation

303.757.9786

[lenore.bates@state.co.us](mailto:lenore.bates@state.co.us)

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## Salt Lake City, Utah | Historic Preservation Plan



Clarion Associates worked with Salt Lake City to develop a new city-wide Historic Preservation Plan. Salt Lake City includes some of the nation's largest and most intact historic districts (including thousands of structures), and the city has been actively working to preserve historic resources for decades. Because the city did not have a recent comprehensive plan or a city-wide preservation plan, preservation issues were being addressed on a piecemeal basis, and planners and decision-makers struggled to reconcile preservation goals with other, sometimes competing city needs. The new preservation plan clarifies the city's commitment to preservation and establishes a framework for balancing preservation with other important city goals, like encouraging transit-oriented development and the provision of affordable housing. Another key feature of the plan is an emphasis on sustainability.

### CONTACT INFORMATION

Robin Zeigler

Former Sr. Historic Preservation Planner, Salt Lake City Corporation

(Current Historic Zoning Administrator at Metro Historic Zoning Commission)

451 South State Street #406

Salt Lake City, UT 84111

615.862.7970

[robin.zeigler@nashville.gov](mailto:robin.zeigler@nashville.gov)

Click the following link to see the plan <http://www.slcdocs.com/Planning/MasterPlansMaps/presplan.pdf>

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## Manitou Springs, Colorado | Community Master Plan and Hazard Mitigation Plan



Clarion Associates, in partnership with Acclivity Associates, led a multidisciplinary team on a hallmark project for the City of Manitou Springs; its first comprehensive master plan with a unique approach for integrating natural hazards planning into the long-range planning process. Given much of Manitou Springs is within a National Register and local historic district, historic preservation was a major theme throughout the project. Issues related to historic preservation were addressed as a separate element of the Community Master Plan, and included goals, policies, and implementation actions the City and community will take to ensure ongoing protection, maintenance, and rehabilitation of its historic resources. This approach allowed for the integration of historic preservation into the City's day-to-day decision making processes, and highlighted the inter-relationships historic preservation plays in other areas of the Master Plan, such as in heritage tourism and the City's newly created Creative District. The team worked in partnership with City staff, elected and appointed officials, a Citizens Advisory Committee, a team of Hazard Mitigation experts, and the community at large to explore issues and opportunities; assess risks associated with the City's unique context and natural environment; explore mitigation capabilities; confirm and refine the community's vision and goals. Subject matter experts from Economic and Planning Systems (housing and economic development), Felsburg, Holt & Ullevig (transportation and mobility), Icon Engineering (infrastructure and flood mitigation) and Urban Interactive Studio (online engagement tools) provided targeted input on key elements of the plan, which was adopted in early 2017.

### CONTACT INFORMATION

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Planner II  
City of Manitou Springs  
719.685.2559  
[kberchtold@comsgov.com](mailto:kberchtold@comsgov.com)

## Pennsylvania Trail Towns | Historic Preservation Plan



Clarion Associates worked with Preservation Pennsylvania and the Trail Town Program to develop a coordinated preservation plan for the Trail Town communities along the Great Allegheny Passage (GAP) in Pennsylvania, as well as the greater region of southwestern Pennsylvania and western Maryland. Because of the rich heritage and historic resources along the GAP, the effort focused on preservation since it has the potential to play a larger role in further spurring economic development and heritage tourism in the towns and region. The planning process centered on community involvement and participation to build a broad coalition of support for preservation from the ground-up. The plan celebrates the unique identities and attributes of each individual community, yet it also establishes common goals and objectives necessary for regional success. It establishes a regional Preservation Action Committee (PAC) to oversee the plan's implementation, and focused on immediate, far-reaching, and achievable efforts to establish a solid foundation for future preservation efforts.

### CONTACT INFORMATION

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(Currently with Cycle Forward)  
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[amy@cycleforward.com](mailto:amy@cycleforward.com)

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## State of California | California Preservation Manual



Clarion Associates worked with the California Office of Historic Preservation to prepare a Local Historic Preservation Ordinance Manual. The manual serves as a tool to assist California's local governments that are creating or revising historic preservation ordinances. The publication discusses the basic components of most preservation ordinances and outlines the analytical process of developing specific ordinance provisions. Special emphasis was placed on key administrative and

substantive issues, such as standards for review of certificates of appropriateness, owner consent to historic designation, and demolition by neglect. The publication is not intended be a model ordinance, but rather a discussion of key issues and optional approaches, allowing each local community to tailor the provisions in the manual to their local conditions. Click the link to view the plan [http://ohp.parks.ca.gov/pages/1069/files/14\\_hp\\_ordinances.pdf](http://ohp.parks.ca.gov/pages/1069/files/14_hp_ordinances.pdf)

AMENDMENT TO THE BUDGET ORDINANCE

**BE IT ORDAINED** by the Governing Board of the Town of Davidson, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2019:

**Section 1:** To amend the General Fund, the appropriations are to be changed as follows:

<u>Acct. No.</u>	<u>Account</u>	<u>Decrease</u>	<u>Increase</u>
10-40-4910-440	Contract Services		\$ 85,000.00

Budgeted expenditures will fund the first year of the Comprehensive Plan contract

**Section 2:** To amend the General Fund, the estimated revenues are to be changed as follows:

<u>Acct. No.</u>	<u>Account</u>	<u>Decrease</u>	<u>Increase</u>
10-00-3990-980	Fund Balance Appropriated		\$ 85,000.00

These funds are from Unassigned Fund Balance

**Section 3:** Copies of this budget amendment shall be furnished to the Clerk of the Governing Board, and to the Budget Officer and the Finance Officer for their direction.

Adopted this 7th day of August, 2018



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**Agenda Title: Consider Approval of Ordinance 2018-04 (DPO Text Amendments Reducing Scale of Village Infill Building Types) and Consistency Statement, with Public Comment**

**Planning Director Jason Burdette**

**Summary:** The Board of Commissioners directed staff to review building types, specifically reducing the scale of buildings and developing a context-sensitive strategy. Staff proposes removing the multi-family building type in the VIP and replacing it with two Mixed Village options, both reduced in scale.

**Summary:**

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**ATTACHMENTS:**

<b>Description</b>	<b>Upload Date</b>	<b>Type</b>
□ Agenda Memo - Ordinance 2018-04 DPO Text Amendments Reducing Scale of Village Infill Building Types	8/23/2018	Cover Memo
□ VIPA Building Types - Staff Analysis	8/23/2018	Backup Material
□ VIPA Building Types - Ordinance	8/24/2018	Cover Memo
□ VIPA Building Types _ Presentation	8/23/2018	Backup Material
□ VIPA Building Types - Consistency Statement	8/24/2018	Cover Memo



## Consider Ordinance 2018-04: DPO Text Amendments Reducing Scale of Village Infill Building Types

To: Davidson Board of Commissioners  
From: Jason Burdette, Planning Director  
Date: August 28, 2018  
Re: Village Infill building types

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### 1. OVERVIEW

The Board of Commissioners directed staff to review building types, specifically reducing the scale of buildings and developing a context-sensitive strategy. Staff proposes removing the multi-family building type in the VIP and replacing it with two Mixed Village options, both reduced in scale.

### 2. RELATED TOWN GOALS

**Strategic Plan Goal:** Change land use regulations including revisions to Village Infill Planning Area for lower densities and smaller scale.

**Planning Department: Work Plan:** (Neighborhood Character) Develop a Village Infill multi-family strategy.

**Comprehensive Plan:** Maintain Quality Design/Sound Planning Principles Goal 1- Prioritize Infill/Mixed-Use Development Within or Near Already Developed Areas. The town should establish the downtown and village area as the highest priority for infill, redevelopment, and mixed use.

**Core Values:** Davidson's traditional character is that of a small, historic college town, so land planning will reflect its historic patterns of village-centered growth including connection of neighborhoods, preservation of our historic resources, conservation of rural area, and provision of public spaces.

**Constituents Served:** All citizens. Though citizens living in the Village Infill Planning Area would be most served/impacted.

### 3. OPTIONS/PROS & CONS

**Pros:** Reduces scale of potential development in the Village Infill Planning Area.

**Cons:** Renders Lakeside Apartments a non-conforming building type.

### 4. FYI or RECOMMENDED ACTION

Approve Ordinance 2018-04.

### 5. NEXT STEPS

N/A



## MEMO

Date: August 28, 2018  
 To: Board of Commissioners  
 From: Jason Burdette, Planning Director  
 Re: Davidson Planning Ordinance 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 address the compatibility of building types in the Village Infill Planning Area. Additional changes that occur outside of Sections 2 and 4 are necessary to ensure that cross-references related to the proposed changes are consistent across the DPO.

PROPOSED TEXT CHANGES				
PAGE	SECTION	TITLE	ISSUE	PROPOSED ACTION
SECTION 2 – PLANNING AREAS				
2-5	2.1.4.D	BUILDING TYPES	The text amendments propose adding a new building type, Mixed Village housing, which must be included in the list of building type general descriptions.	Add a description of Mixed Village housing to the list of building types.
TEXT CHANGES			<p>Old Text: N/A [Does Not Exist]</p> <p>New Text: Mixed Village Housing (Village Walkup, Village Courtyard): Mixed Village housing includes well-scaled buildings designed to fit within the context of surrounding residential or mixed-use neighborhoods. These buildings are a minimum of two stories, include a minimum of four to a maximum of eighteen units, feature individual or shared entrances, and provide walkable access to nearby destinations for multiple tenants. Examples of Mixed Village buildings include walkup and courtyard dwellings.</p>	
2-19	2.2.4.A	VILLAGE INFILL PLANNING AREA DESCRIPTION	The text amendments propose to encourage a diversity of building types in Master Plan proposals.	Add a paragraph listing the building type requirements applicable to Master Plan projects greater than three

				acres within the planning area.
TEXT CHANGES			Old Text: A range of housing types is encouraged. Small retail establishments are permitted...  New Text: A range of housing types is encouraged: For Master Plan projects on lots over three acres a mix of at least two different building types is encouraged. [New Paragraph] Additionally, small retail establishments are permitted...	
2-21	2.2.4.C	VILLAGE INFILL PLANNING AREA BUILDING TYPES TABLE 2-11	The text amendments propose to address compatibility within the Village Infill Planning Area by removing one building type and adding an alternative building type.	In Table 2-11 Building Types, remove Multi-family from the Building Type column and replace with the Mixed Village building type.
TEXT CHANGES			Old Text: Building Type/Multi-family – 2 Stories/37 Feet  New Text: Mixed Village – 2 Stories Min./2 Stories Max.	
2-22	2.2.4.D	VILLAGE INFILL PLANNING AREA SETBACKS TABLE 2-13	The text amendments propose to address compatibility within the Village Infill Planning Area, which includes applying context-sensitive setback criteria to the Mixed Village building type so that these buildings adhere to the same criteria as single-family Detached Houses and therefore reinforce a street’s existing character.	▫ In Table 2-13 Setbacks, remove Multi-family from the Building Types column and replace with the Mixed Village building type.  ▫ Adjust the Mixed Village setbacks to be consistent with single-family Detached Houses.
TEXT CHANGES			Old Text: Building Type/Multi-family; Setbacks Front (5’ Min., 10’ Max.), Side (10’ Min., N/A Max.), Rear (5’ Min., N/A Max.).  New Text: Mixed Village; Setbacks Front († Min., †† Max.), Side († Min., †† Max.), Rear (20’ Min., N/A Max.).	
SECTION 4 – SITE & BUILDING DESIGN STANDARDS				
4-2	4.3.1.A.2	STANDARDS: PEDESTRIAN & VEHICULAR ACCESS	The text amendments propose to address compatibility within the Village Infill Planning Area by adding Mixed Village housing, which must be subject to the same standards for fronting streets and public spaces.	Add Mixed Village housing to the list of building required to front public streets and public spaces.
TEXT CHANGES			Old Text: Detached, attached, townhouse, and multi-family buildings shall have the primary pedestrian entry facing a	

			<p>fronting, primary street, a central courtyard, or pedestrian way.</p> <p>New Text: Detached, attached, townhouse, mixed village, and multi-family buildings shall have the primary pedestrian entry facing a fronting, primary street, a central courtyard, or pedestrian way.</p>	
4-14	4.5.4	MIXED VILLAGE BUILDING TYPE	<p>The text amendments propose to address compatibility within the Village Infill Planning Area by adding Mixed Village housing, which must be described and assigned criteria to govern these buildings' design.</p>	<p>Add Mixed Village housing to the list of building types and include relevant criteria to ensure their compatibility with surrounding residential and mixed-use neighborhoods.</p>
TEXT CHANGES			<p>Old Text: N/A [Does Not Exist]</p> <p>New Text: Mixed Village Building: Mixed Village housing includes well-scaled buildings designed to fit within the context of surrounding residential or mixed-use neighborhoods. These buildings are a minimum of two stories, include individual or shared entrances, and provide walkable access to nearby destinations. Examples of Mixed Village buildings include walkup and courtyard dwellings, as described below. All Mixed Village buildings are subject to the Master Plan or Individual Building processes as well as and Design Review Board approval.</p> <p>A. Village Walkup: Small-scale buildings comprised of 4-12 units that typically feature a shared entrance or corridor.</p> <p>B. Village Courtyard: Small-scale buildings comprised of 10-18 units arranged around a courtyard and including individual or shared entrances.</p> <p>C. Features:</p> <ol style="list-style-type: none"> <li>1. Sites with multiple buildings shall arrange the buildings to front the street and to frame common open space and amenities. Village Courtyard buildings must include a courtyard, and courtyard proportions shall feature a maximum of 2:1 or minimum 1:2 height to width ratio. Courtyard depth shall be at least one times the width but not exceed two times the width of the courtyard opening.</li> <li>2. Entrances should be differentiated architecturally to create a sense of human scale.</li> <li>3. Building and outdoor unit entrances on the first floor shall face the street or courtyard and may include a porch, stoop, or similar element which provides a transition from the courtyard area/public sidewalk to the private space within the building or unit. The primary pedestrian entrance to end unit(s) of courtyard buildings shall face the primary fronting street. Units above the first floor shall be accessed from an interior stairwell. Entrances to</li> </ol>	

			common stairwells shall also have access from the courtyard or the fronting street. Exterior corridors fronting the street are not allowed. 4. Generally, parking shall be located behind the building where required.	
SECTION 8 – PARKING				
8-3	8.3.2	EXCEPTIONS TO PARKING REQUIREMENTS	The proposed Mixed Village building type is similar to the attached and townhouse building types and therefore should be included in the list of building types able to meet parking criteria in a variety of ways.	Add the Mixed Village building type to the list featured in 8.3.2.
TEXT CHANGES			Old Text: Detached, attached, and townhouse building types may meet or contribute to meeting motor vehicle parking requirements with on-street parking if abutting portion of the fronting street is designed to meet the parking needs of the residential buildings.  New Text: Detached, attached, mixed village, and townhouse building types may meet or contribute to meeting motor vehicle parking requirements with on-street parking if abutting portion of the fronting street is designed to meet the parking needs of the residential buildings.	
SECTION 16 – DEFINITIONS				
16-11	16.3	DEFINITIONS, C	The ordinance language must be updated to be consistent with the addition of new courtyard standards in Section 4.	Include a reference to Section 4 of the ordinance.
TEXT CHANGES			Old Text: Courtyard: For single-family detached building types, 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.  New Text: Courtyard: For single-family detached building types, 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. For non-single family detached building types, see Section 4 for courtyard standards.	

## 2. PUBLIC PLANS AND POLICIES

The proposed text changes are consistent with the existing policy and ordinance frameworks adopted by the town. With the removal of the Multi-family building type and the inclusion of the Mixed Village building types in the Village Infill Planning Area, the standards seek to ensure the compatibility of existing and future development while maintaining the character of existing streets. 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 & PUBLIC HEARING**

On October 30, 2017 the Planning Board informally reviewed the changes before formally reviewing the proposed changes and offering a recommendation at the board’s November 27, 2017 meeting. At that time the proposed changes included a requirement that Master Plan proposals greater than three acres provide a mix of at least two building types. Additionally, the height for Mixed Village was listed as two stories or 37 feet.

The Planning Board’s consistency statement noted the importance of preserving Davidson’s character and sense of community as well as the importance of encouraging diversity of all economic levels by providing a mixture of housing types and prices in every neighborhood. The board voted 9-0 to recommend adoption of the proposed amendments.

At the Board of Commissioners hearing citizens expressed concern about the mandatory inclusion of building types in master plans of a specific size. This language was subsequently removed from the proposed text amendments.

### **4. STAFF RECOMMENDATION**

The proposed changes aim to ensure the compatibility of building types within the Village Infill Planning Area by implementing context-sensitive standards. Specific explanations are provided in the table above. These changes are recommended for approval in order to accurately reflect the proposed Planning Area standards for each parcel.



**O2018-04 (DRAFT)**  
**Village Infill Building Types Text Amendments**

TOWN OF DAVIDSON BOARD OF COMMISSIONERS (the “Town Board”) adopts the following text amendments to the **Davidson Planning Ordinance (DPO)**. The listed changes are being undertaken to address the compatibility of building types in the Village Infill Planning Area. Additional changes that occur outside of Sections 2 and 4 are necessary to ensure that cross-references related to the proposed changes are consistent across the DPO. Proposals are organized by page number.

PROPOSED TEXT CHANGES				
PAGE	SECTION	TITLE	ISSUE	PROPOSED ACTION
SECTION 2 – PLANNING AREAS				
2-5	2.1.4.D	BUILDING TYPES	The text amendments propose adding a new building type, Mixed Village housing, which must be included in the list of building type general descriptions.	Add a description of Mixed Village housing to the list of building types.
TEXT CHANGES			<p>Old Text: N/A [Does Not Exist]</p> <p>New Text: Mixed Village Housing (Village Walkup, Village Courtyard): Mixed Village housing includes well-scaled buildings designed to fit within the context of surrounding residential or mixed-use neighborhoods. These buildings are a minimum of two stories, include a minimum of four to a maximum of eighteen units, feature individual or shared entrances, and provide walkable access to nearby destinations for multiple tenants. Examples of Mixed Village buildings include walkup and courtyard dwellings.</p>	
2-19	2.2.4.A	VILLAGE INFILL PLANNING AREA DESCRIPTION	The text amendments propose to encourage a diversity of building types in Master Plan proposals.	Add a paragraph listing the building type requirements applicable to Master Plan projects greater than three acres within the planning area.
TEXT CHANGES			<p>Old Text: A range of housing types is encouraged. Small retail establishments are permitted...</p>	

			New Text: A range of housing types is encouraged: For Master Plan projects on lots over three acres a mix of at least two different building types is encouraged. [New Paragraph] Additionally, small retail establishments are permitted...	
2-21	2.2.4.C	VILLAGE INFILL PLANNING AREA BUILDING TYPES TABLE 2-11	The text amendments propose to address compatibility within the Village Infill Planning Area by removing one building type and adding an alternative building type.	In Table 2-11 Building Types, remove Multi-family from the Building Type column and replace with the Mixed Village building type.
TEXT CHANGES			Old Text: Building Type/Multi-family – 2 Stories/37 Feet New Text: Mixed Village – 2 Stories Min./2 Stories Max.	
2-22	2.2.4.D	VILLAGE INFILL PLANNING AREA SETBACKS TABLE 2-13	The text amendments propose to address compatibility within the Village Infill Planning Area, which includes applying context-sensitive setback criteria to the Mixed Village building type so that these buildings adhere to the same criteria as single-family Detached Houses and therefore reinforce a street’s existing character.	<ul style="list-style-type: none"><li>▫ In Table 2-13 Setbacks, remove Multi-family from the Building Types column and replace with the Mixed Village building type.</li><li>▫ Adjust the Mixed Village setbacks to be consistent with single-family Detached Houses.</li></ul>
TEXT CHANGES			Old Text: Building Type/Multi-family; Setbacks Front (5’ Min., 10’ Max.), Side (10’ Min., N/A Max.), Rear (5’ Min., N/A Max.).  New Text: Mixed Village; Setbacks Front († Min., †† Max.), Side († Min., †† Max.), Rear (20’ Min., N/A Max.).	
SECTION 4 – SITE & BUILDING DESIGN STANDARDS				
4-2	4.3.1.A.2	STANDARDS: PEDESTRIAN & VEHICULAR ACCESS	The text amendments propose to address compatibility within the Village Infill Planning Area by adding Mixed Village housing, which must be subject to the same standards for fronting streets and public spaces.	Add Mixed Village housing to the list of building required to front public streets and public spaces.
TEXT CHANGES			Old Text: Detached, attached, townhouse, and multi-family buildings shall have the primary pedestrian entry facing a fronting, primary street, a central courtyard, or pedestrian way.  New Text: Detached, attached, townhouse, mixed village, and multi-family buildings shall have the primary pedestrian entry facing a fronting, primary street, a central courtyard, or pedestrian way.	

4-14	4.5.4	MIXED VILLAGE BUILDING TYPE	The text amendments propose to address compatibility within the Village Infill Planning Area by adding Mixed Village housing, which must be described and assigned criteria to govern these buildings' design.	Add Mixed Village housing to the list of building types and include relevant criteria to ensure their compatibility with surrounding residential and mixed-use neighborhoods.
<p>TEXT CHANGES</p>			<p>Old Text: N/A [Does Not Exist]</p> <p>New Text: Mixed Village Building: Mixed Village housing includes well-scaled buildings designed to fit within the context of surrounding residential or mixed-use neighborhoods. These buildings are a minimum of two stories, include individual or shared entrances, and provide walkable access to nearby destinations. Examples of Mixed Village buildings include walkup and courtyard dwellings, as described below. All Mixed Village buildings are subject to the Master Plan or Individual Building processes as well as and Design Review Board approval.</p> <p>A. Village Walkup: Small-scale buildings comprised of 4-12 units that typically feature a shared entrance or corridor.</p> <p>B. Village Courtyard: Small-scale buildings comprised of 10-18 units arranged around a courtyard and including individual or shared entrances.</p> <p>C. Features:</p> <ol style="list-style-type: none"> <li>1. Sites with multiple buildings shall arrange the buildings to front the street and to frame common open space and amenities. Village Courtyard buildings must include a courtyard, and courtyard proportions shall feature a maximum of 2:1 or minimum 1:2 height to width ratio. Courtyard depth shall be at least one times the width but not exceed two times the width of the courtyard opening.</li> <li>2. Entrances should be differentiated architecturally to create a sense of human scale.</li> <li>3. Building and outdoor unit entrances on the first floor shall face the street or courtyard and may include a porch, stoop, or similar element which provides a transition from the courtyard area/public sidewalk to the private space within the building or unit. The primary pedestrian entrance to end unit(s) of courtyard buildings shall face the primary fronting street. Units above the first floor shall be accessed from an interior stairwell. Entrances to common stairwells shall also have access from the courtyard or the fronting street. Exterior corridors fronting the street are not allowed.</li> <li>4. Generally, parking shall be located behind the building where required.</li> </ol>	

SECTION 8 – PARKING				
8-3	8.3.2	EXCEPTIONS TO PARKING REQUIREMENTS	The proposed Mixed Village building type is similar to the attached and townhouse building types and therefore should be included in the list of building types able to meet parking criteria in a variety of ways.	Add the Mixed Village building type to the list featured in 8.3.2.
TEXT CHANGES			<p>Old Text: Detached, attached, and townhouse building types may meet or contribute to meeting motor vehicle parking requirements with on-street parking if abutting portion of the fronting street is designed to meet the parking needs of the residential buildings.</p> <p>New Text: Detached, attached, mixed village, and townhouse building types may meet or contribute to meeting motor vehicle parking requirements with on-street parking if abutting portion of the fronting street is designed to meet the parking needs of the residential buildings.</p>	
SECTION 16 – DEFINITIONS				
16-11	16.3	DEFINITIONS, C	The ordinance language must be updated to be consistent with the addition of new courtyard standards in Section 4.	Include a reference to Section 4 of the ordinance.
TEXT CHANGES			<p>Old Text: Courtyard: For single-family detached building types, 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.</p> <p>New Text: Courtyard: For single-family detached building types, 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. For non-single family detached building types, see Section 4 for courtyard standards.</p>	

**Adopted on the 28th of August 2017.**

Attest:

\_\_\_\_\_  
Elizabeth K. Shores  
Town Clerk

\_\_\_\_\_  
Rusty Knox  
Mayor

# REDUCING SCALE OF VILLAGE INFILL BUILDING TYPES



College Town. Lake Town. *Your Town.*

Board of Commissioners Meeting  
Jason Burdette, Planning Director  
Reducing Scale of VIPA Building Types  
August 28, 2018

# TEXT AMENDMENTS – OVERVIEW

## TOPICS COVERED

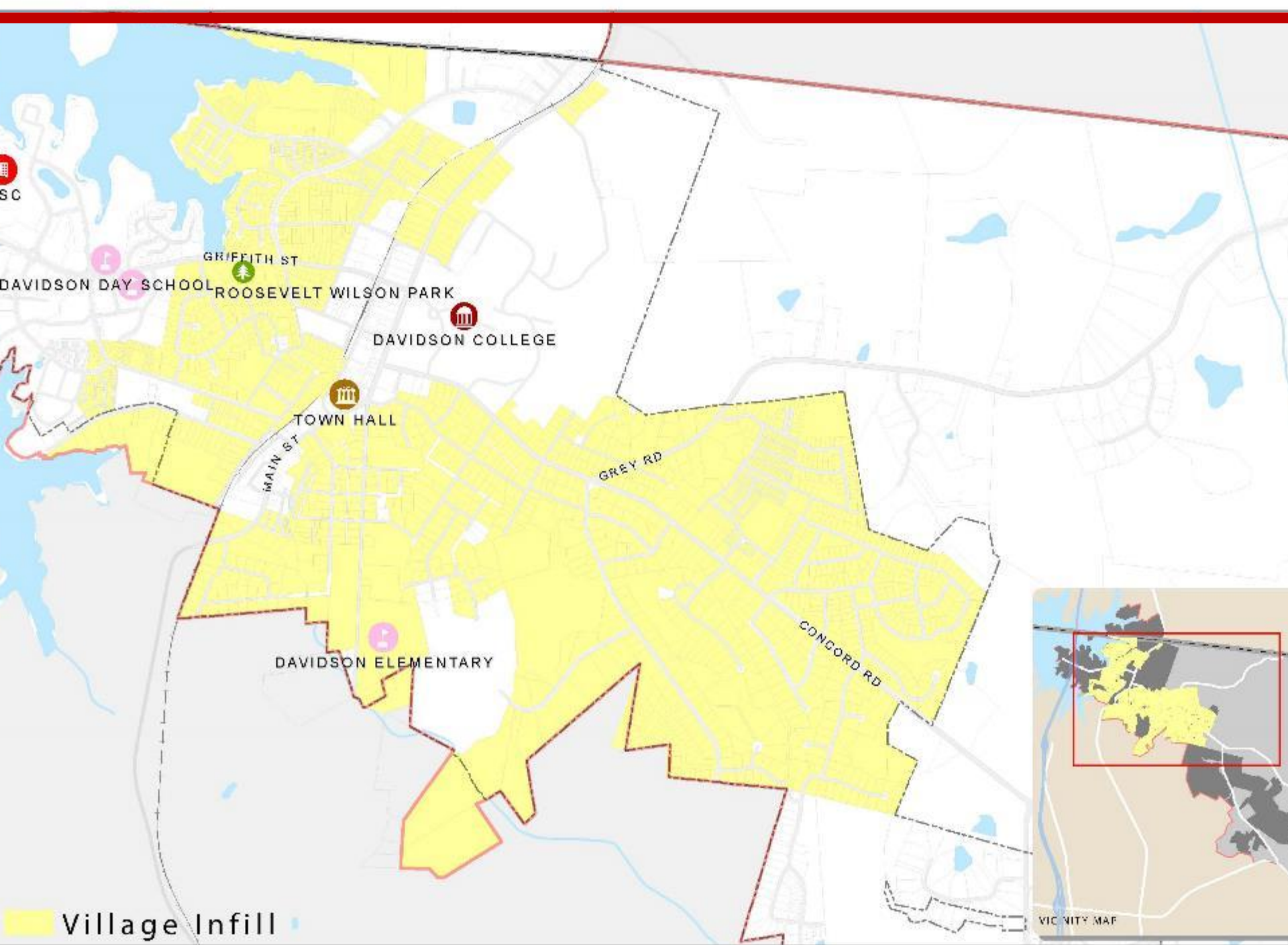
1. **Purpose & Background**
2. **Public Engagement**
3. **Strategic Plan/Core Value/Comp. Plan Alignment**
4. **Amendment Highlights**
5. **Pros & Cons**
6. **Next Steps**

# SECTIONS 2 & 4 TEXT AMENDMENTS

## PURPOSE & BACKGROUND

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- **BOC DIRECTIVE:** Review Multi-Family Building Type in Village Infill Planning Area (BoC Strategic Plan, PD Work Plan)
- **CONCERNS:**
  - As Currently Exists: Building types incompatible with Village Infill
  - If Removed: Context-sensitive building types permitted in Village Infill
- **STRATEGY:** Respond to BoC directive and citizen concerns about scale of buildings in the VIPA
- **PROPOSAL SUMMARY:**
  - Section 2: Eliminate Multi-family from Village Infill Planning Area Permitted Building Types
  - Section 4: Introduce Two New Building Types (Village Walkup, Village Courtyard)



# SECTIONS 2 & 4 - TEXT AMENDMENTS

## PUBLIC ENGAGEMENT

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- **Planning Board:** Discussed multiple meetings in 2017; Nov (rec.)
- **Board of Commissioners:** Public Hearing (Nov 2017); Discussed at 2018 Meetings – January, June, August
- **Digital + Print Media:**
  - E-Crier Notifications: Monthly, Open House (Specific)
  - Website: Updates Tab
  - Planning Board/Board of Commissioner Agendas
  - Town Messenger Newsletter (All Households)

# SECTION 17 - TEXT AMENDMENTS

## POLICY ALIGNMENT

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- **Strategic Plan:**
  - Change land use regulations including revisions to VIPA for lower densities and smaller scale
- **Core Values:**
  - Land planning will reflect historic patterns of village-centered growth
- **Comprehensive Plan:**
  - A mix of building types is encouraged

# SECTIONS 2 & 4 TEXT AMENDMENTS

## AMENDMENT HIGHLIGHTS

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- **Multi-Family Building Type:** Remove from VIPA
- **Mixed Village Housing:** New/Create within VIPA
- **Mixed Village Includes:**
  - Village Walk-Up
  - Village Courtyard
- **Benefits:**
  - Respects Historic Precedents in Town
  - Accommodates Demographic Needs
  - Meets Market Demand

# VILLAGE WALKUP



## VILLAGE COURTYARD



# SECTIONS 2 & 4 TEXT AMENDMENTS

## MIXED VILLAGE OPTIONS

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- **Options for a Mix of Building Types in Master Plans**
  - Option 1: No Minimums/No Maximums:
    - » Development could include all of one building type (i.e. Single Fam, Triplexes, Village Walkups)
  - Two building types is “encouraged,” but not required.
  - Height limits for Mixed Village building types reduced to two stories

# SECTIONS 2 & 4- TEXT AMENDMENTS

## PROS & CONS

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### PROS:

- **Strategic Plan Initiative:** Reduces scale/intensity of potential future development in the VIPA

### CONS:

- **Existing Non-Conforming:** Renders existing multi-family in the VIPA (i.e. Lakeside Apartments) a non-conforming building type

# SECTIONS 2 & 4 TEXT AMENDMENTS

## PROCEDURAL STEPS

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- **BOC Public Hearing:** November 2017
- **Planning Board Review + Recommendation:** November 2017
- **BOC Discussion:** Jan 2018, June 2018, Aug. 2018
- **BOC Action (Potential):** August 28, 2018

**TOWN OF DAVIDSON BOARD OF COMMISSIONERS**  
**Consistency Statement**  
(DPO TEXT AMENDMENTS – VILLAGE INFILL BUILDING TYPES)

**PROPOSAL / REQUEST**

The proposed amendments are being undertaken to address the compatibility of building types in the Village Infill Planning Area. Additional changes that occur outside of Sections 2 and 4 are necessary to ensure that cross-references related to the proposed changes are consistent across the Davidson Planning Ordinance.

**SUMMARY OF PETITION / PROPOSAL**

The amendments propose to:

1. Remove the Multi-family building type from the Village Infill Planning Area;
2. Create a new building type, Mixed Village housing, with two sub-building types – Village Walkup and Village Courtyard;
3. Ensure related parts of the Davidson Planning Ordinance are adjusted in response to these proposed changes.

**CONSISTENCY STATEMENT**

In the opinion of the Board of Commissioners the proposed text amendments are consistent with Davidson Planning Ordinance, as adopted by the Board of Commissioners and amended from time to time. The areas in which the amendments are consistent with the Davidson Planning Ordinance are as follows:

▪ **Consistency with the Davidson Planning Ordinance:**

1. The amendments seek to maintain and/or increase the amount of housing choices while respecting the town's historic and existing character by creating new, smaller-scale multi-tenant building types in the Village Infill Planning Area.
  - *We must preserve Davidson's character and sense of community...This sense of community is enhanced by: Neighborhoods welcoming to all citizens...(Preface, p. 1).*
  - *We will create a community where all persons are welcome and are able to fully and safely participate in community life. To encourage diversity of all economic levels, all races and ethnic groups, all ages, and all physical and mental abilities we will: Provide a mixture of housing types and prices in every neighborhood (Preface, p. 2-3).*

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*Adopted this 28th day of August, 2018.*

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Signature/Date  
Rusty Knox  
Mayor



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**Agenda Title: Consider Approval of Water/Sewer Policy Version from 6/05/2018  
Town Manager Jamie Justice**

**Summary:** Staff was asked to bring forth a draft water and sewer extension policy for the town board to consider. Two drafts have been created for consideration. One is the June 5, 2018 version which applies to properties in the extraterritorial jurisdiction (ETJ). The second is the August 7, 2018 version which applies to properties in the extraterritorial jurisdiction not included in the rural area plan.

Both versions were reviewed with the town board at the August 7, 2018 board meeting. The board decided to consider approving the June 5, 2018 version at the August 28, 2018 board meeting. The June 5, 2018 version essentially creates a written policy where previously it was an unwritten policy and also changes who makes the decision from the town manager to the town board.

**Summary:**

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**ATTACHMENTS:**

<b>Description</b>	<b>Upload Date</b>	<b>Type</b>
❑ Agenda Memo Water/Sewer Policy 08.28.18	8/23/2018	Cover Memo
❑ Water Sewer Agreement 1984	8/23/2018	Cover Memo
❑ R2016-24 Supporting Town of Davidson RAP Recommendation - Charlotte Water_Signed	8/23/2018	Cover Memo
❑ Draft Resolution 2018-12	8/28/2018	Cover Memo



## Draft Water and Sewer Extension Policy Options

To: Davidson Board of Commissioners  
From: Jamie Justice, Town Manager  
Date: August 24, 2018  
Re: Draft Water and Sewer Extension Policy Options

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### 1. OVERVIEW

Under the town's agreement with Charlotte Water, the town approves any water and sewer extension (extension of water and sewer lines to serve a property that is not a connection to existing lines adjacent to a property) to service a property. Currently the process entails approval by the town manager.

Staff was asked to bring forth a draft water and sewer extension policy for the town board to consider. Two drafts have been created for consideration. One is the June 5, 2018 version which applies to properties in the extraterritorial jurisdiction (ETJ). The second is the August 7, 2018 version which applies to properties in the extraterritorial jurisdiction not included in the rural area plan.

Both these versions were reviewed with the town board at the August 7, 2018 board meeting. The board decided to consider approving the June 5, 2018 version at the August 28, 2018 board meeting. The June 5, 2018 version essentially creates a written policy where previously it was an unwritten policy and also changes who makes the decision from the town manager to the town board.

Related, in 2016, the town board approved resolution 2016-24, that requests Charlotte Water add the utility lines planned for the rural area to the Charlotte Water capital improvement program as reimbursable projects for planning purposes. The town still retains the ability, per the agreement with Charlotte Water, to approve or deny water and sewer extensions.

There are two extension requests that would be applicable under this draft policy that are on the August 28, 2018 agenda should this policy be approved.

Attached to the agenda is the June 5, 2018 draft policy, the Charlotte Water agreement, and Resolution 2016-24.

### 2. RELATED TOWN GOALS

#### **Strategic Plan:**

Land Use Goal: the town of Davidson will align land-use policies including revision of development processes, zoning, and regulations to preserve our architectural history, manage residential growth, reduce the scale of future development, and enhance downtown (i.e., connect North and South Main streets).

**Core Value(s):**

- Davidson's traditional character is that of a small, historic college town, so land planning will reflect its historic patterns of village-centered growth including connection of neighborhoods, preservation of our historic resources, conservation of rural area, and provision of public spaces.
- Davidson's economic health is essential to its remaining a sustainable community, so town government will judiciously encourage and guide the location of new business opportunities.
- Citizens entrust town government with the stewardship of public funds, so government will provide high quality services at a reasonable cost.

**Constituents served:**

All citizens.

### **3. OPTIONS/PROS & CONS**

**Option 1: Approve the previous draft policy from the June 5<sup>th</sup>, 2018 board meeting.**

Pros:

A written policy is created to replace the unwritten policy.

The Board makes the extension decisions directly and earlier in the process for growth management purposes.

Cons:

ETJ property owners have an additional step in the process before they can know if they can develop their properties.

**Option 2: Approve the draft policy from the August 7<sup>th</sup>, 2018 board meeting.**

Pros:

A written policy is created to replace the unwritten policy.

The Board makes the extension decisions directly and earlier in the process for growth management purposes.

The ETJ rural area plan property owners do not have an additional step in the process before they can know if they can develop their properties.

Cons:

ETJ non-rural area plan property owners have an additional step in the process before they can know if they can develop their properties.

Divides the ETJ property owners into two different groups with two different extension processes.

**Option 3: Defer action until after the September 20<sup>th</sup>, 2018 mini-retreat.**

Pros:

Allows for further study of the policy options.

Allows for full review of all the growth management tools so the water/sewer extension policy option can be considered with all the options.

Cons:

Continues the uncertainty.

**Option 4: Do nothing which results in the current water/sewer extension process remaining in place.**

Pros:

Allows the unwritten policy to continue.

ETJ property owners do not have an additional step in the process before they can know if they can develop their properties.

Cons:

The Board is not making the extension decisions directly and earlier in the process for growth management purposes.

#### **4. FYI or RECOMMENDED ACTION**

It is recommended that the town board select Option 1 and approve the June 5, 2018 draft policy.

#### **5. NEXT STEPS**

If the Board approves Option 1, the policy would go into effect immediately.

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

AGREEMENT

This Agreement is made and entered into by and between the Town of Davidson, a municipal corporation, duly organized and existing under the laws of the State of North Carolina, hereinafter referred to as the "TOWN", and the City of Charlotte, a municipal corporation, duly organized and existing under the laws of the State of North Carolina, hereinafter referred to as the "CITY".

1. The TOWN, acting by and through its Board of Commissioners, and the CITY, acting by and through its City Council, have determined that it is in the best interests of their citizens and their water and sewer customers for the CITY to acquire, maintain and operate a water and sewer system within the TOWN, as set forth in the attached agreement (hereinafter referred to as the "Water and Sewer Agreement"), reference to which is hereby made.

2. If the entire Water and Sewer Agreement is declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction notwithstanding the provisions of Paragraph 29 of the Water and Sewer Agreement, it is the express intent of the parties that this Agreement shall take effect and shall govern the division of all water and sewer facilities between the TOWN and the CITY and shall also govern the division between the TOWN and the CITY of all duties, responsibilities, obligations and liabilities for providing water and sewer service within the corporate limits of the TOWN.

3. The following words and phrases are defined as set forth below when used in this Agreement, unless a contrary meaning is clearly required by the context in which the word or phrase is used:

a) "Facility" refers to any portion of the water and sewer system:  
1) located within the corporate limits of the TOWN or its extra-territorial jurisdiction; or 2) which was owned or operated by the CITY prior to or after the effective date of the Water and Sewer Agreement.

b) "New Facility" refers to any facility constructed or installed pursuant to the Water and Sewer Agreement.

c) "Cost" shall mean the total, original cost of the construction of any facility, including but not limited to, land or right-of-way acquisition, engineering services, etc., but not including any item donated toward construction of any facility and not including the portion of the total, original cost of the construction of any facility financed by State or Federal grants. Cost does not include debt service expenses. Cost shall be reduced by depreciation on any facility on a straight line basis; provided that the portion of the cost of any facility incurred for land or right-of-way acquisition shall not be reduced for depreciation. Facilities constructed above ground, such as pump stations, shall be depreciated using a thirty (30) year period. Facilities

constructed below ground, such as water and sewer lines, shall be depreciated using a fifty (50) year period.

d) "Improvement" means the replacement of any facility with a substantially larger facility or the construction or installation of a facility in a location where no facility previously existed, such as but not limited to the replacement of a water and sewer pipe with a larger pipe or the re-location of all or a portion of any water and sewer line, regardless of the condition of the line which was replaced or relocated.

e) "Subject water and sewer system" shall have the same meaning in this Agreement as said phrase has in the Water and Sewer Agreement.

4. No consideration, monetary or otherwise, is to be given for the transfer of any facility as set forth below unless consideration is expressly required. Any required, monetary consideration shall be paid over a five (5) year period in five (5) equal payments, with a payment to be made at the end of each year during said five (5) year period. No interest shall be due on such payments.

5. If the entire Water and Sewer Agreement is declared void, invalid or otherwise unenforceable as set forth above, the following provisions shall govern:

a) Any facility owned by the CITY prior to the date of transfer under the Water and Sewer Agreement shall remain under the ownership of the CITY. Any customers who may lawfully continue service from said facility and who desire to continue service from CMUD through said facility may continue said service, notwithstanding that said facility, customer or the property being served is located wholly or partly within the corporate limits of the TOWN and notwithstanding any objection by the TOWN to the continuation of such service. Both parties shall be free to serve those customers which each party was serving prior to the date of transfer under the Water and Sewer Agreement.

b) The subject water and sewer system shall be transferred to the TOWN; provided that, the TOWN shall agree to pay the CITY the total amount of any lease payments from the CITY to the TOWN made pursuant to Paragraph 3(b) of the Water and Sewer Agreement and the cost of any improvements made to the subject water and sewer system; and provided further that, there shall be deducted from such amount any interest which was actually paid by the TOWN on funds borrowed to construct the facilities to be transferred pursuant to this subsection. The TOWN shall not be required to pay for all or any portion of the cost of any improvements financed by the TOWN and for which it has not been previously reimbursed or otherwise repaid by the CITY in any manner.

c) New facilities not financed by the TOWN which are located within the corporate limits of the TOWN shall be transferred to the TOWN; provided that the TOWN shall agree to pay the CITY the cost of such facilities.

d) New facilities financed by the TOWN which are located within the corporate limits of the TOWN shall be transferred to the TOWN; provided that, the TOWN shall agree to pay the CITY any amounts paid by the CITY to the TOWN under the provisions of Paragraphs 13(a) and/or 26(f) of the Water and Sewer Agreement; provided that the amount to be paid to the CITY by the

TOWN shall be reduced by depreciation in the same manner as set forth in Section 3(c) above so that any payments by the TOWN to the CITY shall include only the amount by which the former payments exceed depreciation.

e) New facilities located within the TOWN's extra-territorial jurisdiction shall be the property of the CITY; provided that the CITY shall agree to pay the TOWN the cost of said facilities to the extent financed by the TOWN and not previously reimbursed or otherwise re-paid by the CITY to the TOWN.

f) At such point(s) as facilities of the CITY and TOWN connect, one or more meters or other measuring devices shall be installed. Such meters or measuring devices shall be operated and maintained by the party providing service(s) to the other party and shall be the basis upon which bills are sent to the other party for payment for said service. The CITY agrees to pay such rate for water and sewer service from the TOWN and to abide by such terms and conditions for said service as the TOWN may lawfully impose. So long as said rate is paid and said terms and conditions are satisfied by the CITY, the TOWN may not involuntarily terminate said service. The TOWN agrees to pay such rate for water and sewer service from the CITY and to abide by such terms and conditions for said service as the CITY may lawfully impose. So long as said rate is paid and said terms and conditions are satisfied by the TOWN, the CITY may not involuntarily terminate said service.

g) The TOWN shall assume all duties, obligations and liabilities of the CITY for providing water and sewer services to customers connected to facilities transferred from the CITY to the TOWN. The TOWN shall assume all duties, obligations and liabilities of the CITY for the extension and construction of facilities within the corporate limits of the TOWN, including but not limited to contracts for the extension of facilities.

h) Such documents and records as are described in Paragraph 18(a) of the Water and Sewer Agreement shall be transferred from the CITY to the TOWN for such facilities as are transferred from the CITY to the TOWN. The deposits and advance payments that shall have been made to the CITY by customers or users connected to facilities that are to be transferred from the CITY to the TOWN shall be transferred from the CITY to the TOWN and shall become subject to the sole custody of the TOWN. The designee of the CITY and the designee of the TOWN shall be responsible for determining all other details related to the transfer of facilities and assumption of duties, obligations and liabilities as are set forth in this Agreement which are not specifically addressed herein, including but not limited to the date on which such transfers are to be made.

6. It is expressly understood that the CITY has the authority under the Water and Sewer Agreement to convey, transfer or abandon such portions of the subject water and sewer system and any new facilities acquired by the CITY which are subsequently determined by the CITY to be unnecessary to the proper operation of a water and sewer system for the foreseeable future under the Water and Sewer Agreement within the corporate limits of the TOWN and the TOWN'S extra-territorial jurisdiction. The CITY shall have no obligation to re-acquire such facilities which may be conveyed, transferred or abandoned or to account to the TOWN for any consideration received from the conveyance, transfer or abandonment of any facility or portion thereof prior to the termination of the

Water and Sewer Agreement or upon the termination of the Water and Sewer Agreement.

7. Such facilities as are not expressly transferred to the TOWN under this Agreement shall remain the property of the CITY and shall remain under the CITY's full control and ownership.

8. Any facility required to be transferred from the CITY to the TOWN by this Agreement which is subject to debt shall not be immediately transferred but shall remain the property of the CITY. Such facility shall be leased to the TOWN until the debt on such facility is retired. The TOWN shall agree as part of such a lease to make payments to the CITY of sums sufficient to pay all of the CITY's debt service on said facilities on an annual basis as and when such becomes due and payable. Upon the expiration of this lease arrangement, title to said facility shall pass to the TOWN upon the payment of One Dollar (\$1.00) to the CITY.

9. It is hereby declared to be the intention of the TOWN and the CITY that the paragraphs, sections, sentences, clauses and phrases of this Agreement are severable. If one or more paragraphs, sections, sentences, clauses or phrases shall be declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the remaining provisions of this Agreement and the same shall continue to be fully effective and enforceable on the basis that said remaining provisions would have been agreed to by the CITY and the TOWN without the incorporation of such void, invalid or otherwise unenforceable paragraph, section, sentence, clause or phrase. If this entire Agreement is declared void, invalid, or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction notwithstanding the immediately preceding provisions of this Paragraph, it is the express intent of the parties that said court should be guided by the terms of this Agreement and the express intent of the parties in formulating such relief as the court determines to be appropriate.

10. This Agreement shall have no force and effect concerning the transfer of any water and sewer facility or the duties, obligations and liabilities for providing water and sewer service in the TOWN until and unless the Water and Sewer Agreement is declared to be void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction. The remaining provisions of this Agreement are effective upon the effective date of the Water and Sewer Agreement.

11. a) This Agreement shall be perpetual in duration. The parties hereby agree that such perpetual duration is reasonable in light of the purposes of this Agreement.

b) No joint agency is established by this Agreement.

c) Each party shall have the sole responsibility and authority to appoint or otherwise employ the personnel necessary for the implementation of this Agreement.

d) Each party shall have the responsibility for financing the construction, operation and maintenance of the facilities which are transferred

to it under Paragraph 5 above. Each party shall be entitled to the receipt of all revenues from the facilities transferred to it under Paragraph 5 above.

e) This Agreement may be amended only by a document in writing, approved by the City Council of the CITY and the Board of Commissioners of the TOWN, and executed by the Mayors of the CITY and TOWN.

f) This Agreement shall be terminated only upon the agreement of the CITY and TOWN following the procedure described for amending this Agreement.

g) Prior to this Agreement taking effect for purposes of transferring facilities, duties, obligations and liabilities as set forth above, this Agreement shall remain binding upon the parties and shall not be subject to termination or amendment except as set forth above.

12. This Agreement contains the sole and entire agreement between the TOWN and the CITY regarding the consequences of the entire Water and Sewer Agreement being declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction.

This the 14 day of August, 1984.

ATTEST:

*Pat Sharkey*  
City Clerk

APPROVED AS TO FORM:

*H. M. ...*  
City Attorney

CITY OF CHARLOTTE

BY:

*[Signature]*  
Mayor

TOWN OF DAVIDSON

BY:

*Murray H. MacCormac*  
Mayor

ATTEST:

*Russell B. Knox*  
Town Clerk ~~COMM/ISSUER~~

APPROVED AS TO FORM:

*Richard J. Kline*  
Town Attorney

*W.E. Brannon*  
W.E. Brannon, Town Clerk

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

AGREEMENT

This Agreement is made and entered into by and between the Town of Davidson, a municipal corporation, duly organized and existing under the laws of the State of North Carolina, hereinafter referred to as the "TOWN" and the City of Charlotte, a municipal corporation duly organized and existing under the laws of the State of North Carolina, hereinafter referred to as the "CITY".

1. The TOWN, acting by and through its Board of Commissioners, has determined that it is in the best interests of its citizens and water and sewer customers that the TOWN discontinue the operation of the TOWN's water and sewer system and transfer said system to the CITY pursuant to the terms and conditions hereinafter set forth. The CITY, acting by and through its City Council has determined that it is in the best interests of the citizens of the City of Charlotte and the customers of the Charlotte-Mecklenburg Utility Department, hereinafter referred to as "CMUD", to accept such transfer and to operate and maintain the TOWN's water and sewer system. This Agreement is undertaken pursuant to applicable law, including N.C.G.S. §§ 160A-274 and 321.

2. The following words and phrases are defined as set forth below when used in this Agreement, unless a contrary meaning is clearly required by the context in which the word or phrase is used:

a) "Effective date of this Agreement": The date by which all events described in Paragraph 31(a) of this Agreement have occurred.

b) "Date of transfer": The date on which title or leasehold to the subject water and sewer system passes from the TOWN to the CITY, which shall be a reasonable time after the effective date of this Agreement as set forth in Paragraph 19.

c) "Subject water and sewer system": The real and personal property forming a part of the TOWN's water and sewer system which is to be transferred to the CITY pursuant to this Agreement.

d) "Subject water intake and treatment facilities": The following real property and improvements, which are a part of the subject water and sewer system: the real property, including improvements thereto or used in conjunction therewith, which constitutes the raw water intake facility at Lake Norman (except such portion of the adjacent real property as is separately described in Exhibit A); the real property and improvements thereto which constitute the water treatment plant; the raw water main and all interests in real property associated therewith connecting the raw water intake facility and the water treatment plant; and the transfer from the TOWN to the CITY of all of the TOWN's right to remove water from Lake Norman.

e) "First year": The remainder of the fiscal year in which the date of transfer occurs.

f) "Inside prevailing rate": The rate(s) charged by the CITY to water and sewer customers inside the municipal boundaries of the CITY.

g) "Extra-territorial jurisdiction": The area outside the boundaries of the TOWN within which it has exercised its extra-territorial zoning authority, as such may be changed from time to time throughout the term of this Agreement.

h) "TOWN limits": The municipal boundaries of the TOWN as such may change during the term of this Agreement.

3. a) The TOWN shall transfer and convey, through the execution of appropriate deeds, bills of sale and other documents, to the CITY all real and personal property presently owned and utilized by the TOWN, as part of its water and sewer operation, except for such property as is described in Exhibit A; provided that such property as is subject to debt shall be transferred to the CITY as set forth in sub-section (b) below. Such property as is described in Exhibit A shall remain the property of the TOWN. Title to such real property shall pass to the CITY upon the payment of One Dollar (\$1.00) and such other consideration as is shown in Exhibit B to the TOWN. Appropriate documents needed for passage of title shall be prepared by the CITY and thereafter executed by the Mayors of the TOWN and CITY. Any and all interests in real property acquired by the TOWN after the date of transfer through dedication or gift for water or sewer purposes shall be transferred to the CITY for no additional consideration.

b) All real property, including water and sewer facilities affixed thereto, currently owned or utilized by the TOWN for the subject water and sewer system which was financed by debt of the TOWN, the transfer of which would constitute a breach of the debt instrument, shall be leased to the CITY for the consideration set forth in Exhibit B until all debt on each such property has been retired, at which time title to each will pass to the CITY upon payment of One Dollar (\$1.00) to the TOWN. The lease term for currently owned or utilized properties which are subject to debt shall begin upon the date of transfer. Appropriate documents as may be needed to memorialize the lease may be prepared thereafter and executed by the Mayors of the CITY and the TOWN without further approval of the governing boards thereof.

c) Also included in Exhibit B is the amount of monetary consideration to be paid by the CITY to the TOWN which is attributable solely to the transfer of the subject water intake and treatment facilities ("water system consideration"). The TOWN may, in its sole discretion, give written notice signed by its Mayor directing that all or some specified portion of the water system consideration be applied as a credit to water bills from CMUD to water customers of the subject water and sewer system and any extensions thereof within the TOWN Limits ("TOWN water customers"). Such credits shall reduce the amount of the water system consideration owing from the CITY to the TOWN as fully as if equal amounts of money had been paid by the CITY to the TOWN. In the event the TOWN elects to apply a portion of this monetary consideration as a credit to the TOWN water customers, then the City will credit interest to the Town quarterly based on outstanding principle balance and determined by

the six month U.S. Treasury note rate published as of July 1 of each year. No credit will be made by the CITY, unless directed to do so by the TOWN; provided that, credits will be made by the CITY only if the following conditions are satisfied: written notice from the TOWN directing that such credits be made as received by the CITY at least thirty days after the effective date of this Agreement; the CITY and TOWN agree on the method of computing and applying such credits, including the date after which such credits are to be made; the TOWN directs that such credits are to be made to all TOWN water customers without exception; the CITY will never be required by virtue of the credits provided for in this paragraph to make any direct payment to any TOWN water customer or any other person or entity; such credits are not transferable from one account to another, from one customer to another or on any other basis; if at any time for any reason the current credit to be made exceeds the current water bill for any TOWN water customer, such excess credit will be carried over to apply to future water bills, if any, for such customer; any credits made under the provisions of this paragraph will terminate automatically when the total water system consideration has been satisfied by direct payment to the TOWN and/or by making such credits as are set forth in this paragraph, or earlier upon written notice from the TOWN signed by its Mayor with the effective date of such termination being agreed upon between the TOWN and the CITY; under no circumstances will the CITY be required to make credits to TOWN water customers under the provisions of this paragraph for more than eight years from and after the date of transfer; under no circumstances will the TOWN's direction that credits, as described in this paragraph, be made by the CITY to TOWN water customers be construed to create any rights in said TOWN water customers which are enforceable against the CITY or the TOWN; and the provisions of this paragraph are for the sole and exclusive benefit of the TOWN and the CITY. The TOWN represents that it owns marketable title to the subject water intake and treatment facilities and that the same will be transferred by a good and sufficient deed in fee simple with general warranty and free from incumbrances.

d) With respect to that portion of the 11.9 acre parcel conveyed to the TOWN from Duke Power Company dated August 20, 1962, and further separately described in Exhibit A as not conveyed to the CITY as part of the water intake and treatment facilities, the TOWN hereby grants to the CITY the first right of refusal to purchase such property which shall operate as follows: in the event the TOWN elects to sell such property or any portion thereof it shall deliver to the CITY written offer to sell the property to the CITY which shall set forth a description of the property, the selling price and terms of sale at which the TOWN will sell the property. The CITY shall have sixty (60) days thereafter to exercise its first refusal option to purchase the property by delivering written acceptance to the TOWN of its offer. Thereafter, the TOWN and the CITY shall effect a conveyance of the property within a reasonable time. Such conveyance shall be by good and sufficient deed in fee simple with good warranty and free of incumbrances, unless the TOWN's offer expressly provides otherwise. If the CITY fails to accept such offer within such sixty (60) day period or delivers a written rejection of the offer prior to the expiration of such sixty (60) day period, the TOWN shall be free within the next six (6) month period to enter into a contract to sell such property to any third party at a price equal to or greater than the price offered by the TOWN to the CITY and upon terms no less favorable to the TOWN than those contained in its offer to the CITY. No reduction in price below that offered to the CITY nor the granting of more favorable terms shall be made until a new offer with such price reduction

and/or more favorable terms is first offered to the CITY in accordance with the procedure set forth hereinabove.

e) If the CITY purchases some but not all of the property subject to the first refusal right herein granted, such right shall continue to apply to the remainder of the property. If the CITY fails to accept or reject an offer and the TOWN does not thereafter contract for the sale of the property within six (6) months and transfer such property thereafter in accordance with such contract, such property shall remain subject to the first refusal right herein granted.

f) The right of first refusal shall terminate twenty (20) years after the date of transfer.

g) The Mayors of the CITY and the TOWN shall execute a Memorandum of the terms of the first refusal for recording in the Mecklenburg County Public Registry as either party shall desire.

h) The CITY acknowledges that the TOWN may wish to develop and sell the remaining portion of that 11.9 acre parcel identified in subparagraph 3(d) above subject to the rights of the CITY thereunder. The CITY agrees that in the event the TOWN's plan of development for such property includes the relocation of the existing road, the CITY will (i) grant to the TOWN without cost a right of way for street purposes across CITY's water intake property acquired hereunder, and (ii) relocate the raw water distribution line running from the water intake facility to Torrence Chapel Road across the TOWN's property at no cost to the TOWN.

4. a) The transfer of all property, whether real or personal, under this Agreement is in an "as is" condition, as of the effective date of this Agreement, except as expressly set forth herein. Any documents needed to memorialize this passage of title shall not be required to contain any warranties of condition or title, except as expressly set forth herein. A quit-claim deed shall be executed by the TOWN to convey all interests in real property and improvements thereto which are subject to this Agreement; except as provided in Paragraphs 3(d) and 4(c). A Bill of Sale shall be executed by the TOWN to transfer ownership of all personal property subject to this Agreement. Such documents shall be sufficient to convey to the CITY all of the TOWN's right, title, and interest in and to the subject water and sewer system, including easements and rights-of-way, whether or not recorded. Said rights-of-way shall include the right to operate and maintain the subject water and sewer system within any public streets within the TOWN. The TOWN shall cooperate with the CITY in establishing title to any portion of the subject water and sewer system which may be contested and shall take no position inconsistent with the unconditional right of the CITY without the payment of damages and just compensation to operate and maintain any portion of the subject water and sewer system. During the ten (10) year period immediately preceeding the date of transfer, the TOWN covenants and warrants that it has not acquired any interest in any real or personal property to be transferred hereunder except by operation of law, purchase, gift or the exercise of its powers of eminent domain in compliance with relevant provisions of the North Carolina General Statutes or private acts of the North Carolina General Assembly applicable to the TOWN. All deeds and bills of sale transferring and conveying the subject Water and sewer system shall

be subject to this covenant and warranty. The TOWN shall be liable for one-half of the amount of any monetary damages suffered by the CITY for breach of this covenant and warranty on account of any claim or demand presented to the City within two years after the date of transfer. This paragraph shall not apply to any claim, demand or action, or portion thereof, seeking the recovery of damages for the negligent construction, operation or maintenance of the subject water and sewer system and which is not based upon allegations in the nature of inverse condemnation.

b) Prior to the date of transfer, the TOWN will be responsible for maintaining the subject water and sewer system in reasonable condition. The TOWN will be solely responsible for the expenses incurred in such maintenance. If subject water and sewer system is damaged prior to the date of transfer by a catastrophic event, the TOWN shall make the necessary repairs. The CITY will be obligated to reimburse the TOWN for the reasonable expenses incurred by the TOWN in making the necessary repairs caused by a catastrophic event, provided that: 1) such repairs are made according to applicable standards of CMUD; 2) such repairs are inspected and approved by the Director of CMUD (or his designee), such approval not to be withheld unreasonably; and 3) this Agreement becomes effective as provided in Paragraph 31, below. Any payment from the CITY to the TOWN under this sub-paragraph is due within sixty (60) days after the date of transfer. For purposes of this sub-paragraph, "catastrophic event" means a natural catastrophe such as abnormal and unforeseeable weather and does not include any intentional, unintentional or negligent act or failure to act by one or more persons, corporations, associations, governments or other entities, including but not limited to the TOWN, its officers, agents, and employees. This sub-paragraph will be effective immediately upon the execution of this Agreement, as set forth in Paragraph 31(b).

c) The subject water intake and treatment facilities shall be conveyed by good and sufficient deed in fee simple with general warranty and free of incumbrances.

5. In consideration of the transfer of ownership of the subject water and sewer system, and for future construction financed pursuant to Paragraph 7 below, the CITY shall make such payments to the TOWN at such times as are set forth in Exhibit B. At no point in time shall any obligation, debt, bond, or other liability of the TOWN arising from the construction, operation or maintenance of any portion of the subject water and sewer system be construed to be an obligation, debt, bond or other liability of the CITY, it being the intent and purpose of this Agreement that there be no transfer in any manner of such obligation, debt, bond, or other liability from the TOWN to the CITY.

6. In further consideration for this Agreement, the CITY and TOWN are entering into a separate agreement (hereinafter referred to as "annexation agreement") designating areas which are not subject to annexation by one or more of the municipalities participating in the annexation agreement, a copy of which is attached hereto as Exhibit D. The annexation agreement is an essential element of this Agreement.

7. Any TOWN water and sewer bonds, which are authorized for sale but have not yet been sold, may be sold by the TOWN for the purpose of providing funds for constructing water and sewer facilities within the TOWN listed in

Exhibit E. Any funds already on hand from the sale of TOWN water and sewer bonds shall be utilized for constructing or completing construction of the water and sewer facilities within the TOWN. Any investment earnings on unexpended funds from TOWN water and sewer bonds shall be used to pay for current debt service costs on said bonds. The CITY will assume responsibility for the construction of these facilities effective upon the date of transfer. When design for each of these facilities is completed and ready to be constructed, funds for construction will be transferred from the TOWN to the CITY prior to the start of construction. Upon completion of said facilities, ownership shall remain with the TOWN until said bonds are retired. Said facilities shall be leased to the CITY prior to being placed into operation through a new lease in compliance with the relevant provisions of Paragraph 3(b) above or by an addendum to any existing lease executed pursuant to said Paragraph. Each such new lease or addendum shall provide for payments by the CITY to the TOWN of sums sufficient to pay all of the TOWN's debt service on said bonds on an annual basis as and when such become due and payable. Upon the expiration of said lease arrangement, title to said facility shall pass to the CITY upon payment of One Dollar (\$1.00) to the TOWN.

8. a) Upon the date of transfer, the CITY, through CMUD, shall have the immediate and sole duty and responsibility for planning, constructing, operating and maintaining the subject water and sewer system and any extensions thereof throughout the jurisdiction of the TOWN. Prior to the date of transfer, the TOWN will be responsible for the operation and maintenance of the subject water and sewer system as set forth in Paragraph 4(b) above. From and after the date of transfer, the subject water and sewer system shall be fully incorporated into the water and sewer system operated and maintained by CMUD. Said duty and responsibility shall be in accordance with current and future policies and procedures of CMUD which shall be applied in the TOWN to the same extent and in the same manner as applied in the CITY.

b) The CITY agrees to provide users of the subject water and sewer system and any extensions thereto service of a quality at least equal to the quality of service provided to water and sewer customers within the municipal boundaries of the CITY. The CITY specifically agrees that the geographical location of the water and sewer customers in the TOWN shall not have any substantial effect on the quality of service or timing of repairs to be made by CMUD.

9. Subject to the provisions hereof, it is intended that the operation and maintenance of CMUD shall be on a self-sustaining basis. All revenues of CMUD shall be used exclusively by the utility fund and shall not be used to subsidize any other operations. The schedule of rates, fees, charges and penalties currently charged by CMUD for water and sewer service shall apply to all customers of the subject water and sewer system except as set forth in Paragraph 10. Said schedule of rates, fees, charges and penalties shall not be changed except in accordance with such policies and procedures as apply to all other portions of the water and sewer system operated and maintained by CMUD except as set forth in paragraph 10.

10. a) The CITY shall be authorized to charge customers within the TOWN for water and sewer service based on fixed and variable rates not to

exceed the following multiples of rates charged within the CITY and based on the following time schedule:

<u>Applicable Effective Date of Rate</u>	<u>Factor to be Applied to Inside Prevailing Rate</u>
First year	1.9
Second year	1.8
Third year	1.7
Fourth year	1.6
Fifth year	1.5
Sixth year	1.4
Seventh year	1.3
Eighth year	1.2
Ninth year	1.1
Remaining Term of Agreement	1.0

b) If more than one rate is established by the CITY for water service or sewer service provided to water and sewer customers within the municipal boundaries of the CITY, the rate(s) for such service applicable to water and sewer customers in the TOWN shall be the same rate for substantially equivalent service provided to water and sewer customers within the municipal boundaries of the CITY. In no event will any rate for water or sewer service to a water or sewer customer in the TOWN be based upon: the distance of such customer from the CITY or any portion of the water and sewer system operated and maintained by CMUD; or any other geographical factor.

c) For purposes of determining charges for water and sewer customers within the TOWN, the CITY shall apply the factor for the first year set forth above on the date of transfer. The remaining factors shall be applied at the beginning of the appropriate fiscal year, as set forth in sub-section (a) above. From and after the ninth year, the CITY shall not charge higher rates than are charged for water and sewer service within the CITY to customers of the subject water and sewer system and any extensions thereof within the TOWN.

11. a) In the event of a default by either party hereunder, the non-defaulting party shall give written notice of such default (hereinafter "default notice") to the defaulting party, who shall have a reasonable time (depending upon the nature of the default) thereafter to cure such default. The default notice shall contain a description of the alleged default, the amount of money (if any) involved, and the remedy sought. If the default is not cured within the time period specified, the non-defaulting party shall be entitled to pursue any one or more of the following remedies, which are deemed to be cumulative:

i) specific performance, including the right to a temporary restraining order where conditions dictate immediate action;

ii) monetary damages; and

iii) if the default consists in whole or in part of a failure by a party to perform an act which can be adequately, efficiently, and responsibly performed by the non-defaulting party, the right (but not the obligation) to perform the act and charge the reasonable cost thereof to the defaulting party.

b) The parties agree that neither party shall be entitled to terminate this Agreement as a consequence of a default hereunder or for any other reason because of the nature of this Agreement, the extreme change in position to be undertaken by both parties hereafter, and the need to protect and preserve the health and safety of the public.

c) Any arbitratable claim or controversy arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the applicable Arbitration Rules of the American Arbitration Association (said Association hereinafter referred to as "AAA"), and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. For purposes of this sub-section, "arbitratable claim or controversy" shall mean any claim or controversy limited to factual disputes and which does not involve the interpretation or construction of this Agreement. Any party desiring to initiate arbitration under this sub-section shall file with the other party written notice of intention to arbitrate (hereinafter "arbitration notice") and submit to the AAA such copies of the arbitration notice and such additional information and payment as the AAA shall require. The arbitration notice shall be filed within 180 days of the default notice. The arbitration notice shall contain a description of the alleged default, the amount of money (if any involved), and the remedy sought. The preceeding sub-sections of this Paragraph shall apply equally to arbitratable as well as non-arbitratable claims or controversies.

d) In any proceeding to enforce the terms of this Agreement, whether review is effected through arbitration or in court, the CITY and the TOWN irrevocably consent to the intervention as a party of one or more other Towns, if said terms are substantially similar to the terms of an agreement(s) between the CITY and said other Town(s). The TOWN hereby irrevocably consents to being added as an additional party in any proceeding to enforce the terms of an agreement, whether review is effected through arbitration or in court, between the CITY and any other Town(s), if said terms are substantially similar to terms in this Agreement. It is the intent of the parties to minimize disputes between the CITY, the TOWN and other Towns having similar agreements to this Agreement by including all affected Towns in the resolution of any dispute arising under this Agreement and similar agreements, regardless of the circumstances under which said dispute first arises.

12. The TOWN represents and warrants to the CITY that there is no discriminatory agreement between the TOWN and any customer or user of the subject water and sewer system which will or may survive this Agreement and be binding upon the CITY with the sole exception of the TOWN's agreement to sell water to the Town of Cornelius. For purposes of this Agreement, a discriminatory agreement is any agreement, contract or other understanding between the TOWN and any customer or user of the subject water and sewer system that provides that: water and/or sewer service be extended and/or provided in a different manner than such service is extended and/or provided to the remaining customers or users of the subject water and sewer system as to quality, quantity, or any other aspect of extending and/or providing such service; or water and/or sewer service be extended and/or provided upon the payment of a different schedule of rates, fees, charges, or penalties and/or at a different cost or schedule for reimbursement of costs or any other aspect of paying for the extension and/or provision of water and/or sewer service than is imposed

upon the remaining customers or users of the subject water and sewer system. In the event that a discriminatory agreement exists which survives this Agreement and is binding upon the CITY, the TOWN shall indemnify and hold the CITY harmless from any and all demands, claims, or actions (including the reasonable costs, expenses and attorney fees incurred by the CITY), of whatever nature or kind, arising in whole or in part from the existence of such discriminatory agreement, without regard to the relief sought or awarded and without regard to whether the claim, demand or action is raised by a party to the discriminatory agreement.

13. a) Subject to the provisions of this Paragraph and Paragraph 27 below, developer extensions of the subject water and sewer system or extensions requested by the TOWN shall be made under the policies now published and used by CMUD and shall be uniform throughout the CMUD system and the TOWN. The CITY may make such changes to these extension policies as the CITY determines to be appropriate only after following such policies and procedures as apply to all other portions of the water and sewer system operated and maintained by CMUD. No extension policy will be adopted which treats the TOWN and/or the area reserved for annexation to the TOWN as defined in the annexation agreement, or any developer or user within the TOWN and/or within the area reserved for annexation to the TOWN as defined in the annexation agreement differently than the CITY or any user or developer within the CITY without the prior written consent of the TOWN. "Extension policy" shall be construed to include within its meaning, but is not limited to, a geographical moratorium on extensions of water and/or sewer lines unless said moratorium is required under applicable State or Federal law, unless said moratorium applies throughout the CMUD system within Mecklenburg County, or unless emergency action is required in the form of a temporary moratorium to avoid an imminent and substantial threat to the health of the residents of the area subject to the moratorium.

b) Property located entirely within the TOWN, its extra-territorial jurisdiction and/or Iredell County may not be served with water or sewer service by the extension of any line without written approval of the TOWN signed by the Mayor thereof or his/her designated representative. No approval of the TOWN is required to serve any other property, even if a water and/or sewer line must be extended through the TOWN or its extra-territorial jurisdiction in order to serve such property. No approval of the TOWN is required for a service connection to any existing or future line, regardless of the location of the property to be served.

c) The TOWN agrees to indemnify and hold the CITY and CMUD harmless from any and all liability arising in any manner from the inability of the CITY and CMUD to provide water and/or sewer service to any person, partnership, association, corporation or other entity because the TOWN has not given the approval required by Paragraph 13(b) above. For purposes of this paragraph, "liability" includes but is not limited to damages, punitive damages, treble (or any other multiple) damages, court costs and all other reasonable costs and expenses, including attorney fees, incurred by the CITY and CMUD in any judicial or administrative proceeding or in preparation therefor.

14. Any water and/or sewer line operated and maintained by the CITY which is not an extension of the subject water and sewer system and which is located in an area annexed by the TOWN after the date of transfer shall be and remain the property of the CITY without any further consideration to the TOWN. Water and sewer customers located in any area annexed to the TOWN will be subject to the same schedule of rates, fees, charges and penalties that is charged to other water and sewer customers located within the TOWN. Any extensions of the subject water and sewer system financed by the CITY shall be and remain the property of the CITY without any further consideration to the TOWN, but shall otherwise be subject to this Agreement.

15. a) The TOWN hereby irrevocably grants and permits the CITY the right to operate and maintain all portions of the subject water and sewer system in, on, and under any and all real property, including streets, dedicated streets or rights-of-way, which are owned by the TOWN or to which the TOWN claims an interest. The TOWN hereby irrevocably grants and permits the CITY the right and permission to construct, operate, maintain and perform all related activity for future water and/or sewer lines in, on, and under TOWN streets and dedicated streets or rights-of-way. In all instances, the CITY or its authorized contractor shall be required to restore and repair any street or other property of the TOWN upon the completion of any construction, operation, maintenance or related activity causing damage thereto. At or before such time as the TOWN shall close any street or sell any interest in any property in which a water and/or sewer line subject to this Agreement is actually located, the TOWN shall take such action as is necessary to protect as a matter of record the rights and interests previously transferred to the CITY pursuant to this Agreement, including but not limited to reserving the necessary easements and rights-of-way for the operation and maintenance of said line. The Director of the Charlotte-Mecklenburg Utility Department shall specify the necessary rights-of-way to be reserved, in accordance with engineering standards adopted by CMUD and which shall be parallel to the existing line. The TOWN shall also make adequate reservation for the necessary rights-of-way for all planned water and/or sewer lines prior to closing any street. If the TOWN fails to comply with the provisions of this paragraph, the TOWN shall reimburse the CITY in full for all expenses incurred in acquiring the necessary right-of-way by purchase or condemnation.

b) The TOWN represents that it has not awarded by franchise or otherwise conveyed in the past and agrees that it will not award by franchise or otherwise convey in the future rights to any third party to use any real property, including streets, dedicated streets or rights-of-way, owned or claimed by the TOWN in a manner which would unreasonably interfere with or impair the ability of the CITY to operate and maintain the subject water and sewer system or to construct, operate and maintain extensions thereof. Any future franchises which are renewed or awarded by the TOWN will be made expressly subject to the CITY's rights to operate and maintain the subject water and sewer system and to construct, operate and maintain extensions thereof. Franchisees of the TOWN, such as but not limited to operators of cable television systems, will be permitted to cross or encroach upon any portion of the subject water and sewer system or any extensions thereof which are located within streets, dedicated streets, rights-of-way, or other real property owned by the TOWN for constructing, maintaining and operating authorized facilities of the franchisee at no cost to said franchisee upon reasonable terms and conditions; provided that, such crossing or encroachment

will not impair the CITY's ability to operate and maintain the portion of the water and sewer system affected. Any expense resulting from encroachment upon the subject water and sewer system or any extension thereof by said franchisee which results in impairment to the subject water and sewer system and any extensions thereof will be at said franchisee's expense. If any franchisee of the TOWN shall refuse to allow the CITY to cross or encroach upon property of the franchisee under the same terms and conditions as set forth above in this sub-section, the CITY shall have no obligation to permit said franchisee to cross or encroach upon the CITY's water and sewer system.

16. The CITY agrees to allow and permit the TOWN in the future to cross or encroach upon any portion of the subject water and sewer system or any extensions thereof for constructing and maintaining public streets or utility facilities at no cost to the TOWN upon reasonable terms and conditions; provided that, such crossing or encroachment will not impair the CITY's ability to operate and maintain the portion of the water and sewer system affected. Any expenses resulting from an encroachment upon the subject water and sewer system or any extensions thereof by the TOWN which results in impairment to the subject water and sewer system or any extension thereof will be at the TOWN's expense. The TOWN agrees to allow and permit the CITY in the future to cross or encroach upon any portion of any future street or dedicated street or right-of-way or utility easement owned by the TOWN for the purpose of constructing, maintaining, and operating any extension of the subject water and sewer system, at no cost to the CITY upon reasonable terms and conditions; provided that, such crossing or encroachment will not impair the TOWN's ability to operate and maintain the portion of its street system or utility system which is affected. Any temporary impairment resulting from construction and maintenance activity shall not be a basis for not allowing or permitting such crossing or encroachment. All construction and maintenance activities shall be performed in a timely manner so as not to unduly or unnecessarily impair the use of the TOWN's street system or utility system or the use of the CITY's water and sewer system. For purposes of this Paragraph, "utility" refers to any system(s) operated by the TOWN for: water production processing and distribution; the generation, transmission, and/or distribution of electric power or any related activity; and/or communication purposes, such as but not limited to telephone service and any related activity.

17. a) The CITY's duties and responsibilities for planning, constructing, operating and maintaining the subject water and sewer systems and any extensions thereof throughout the jurisdiction of the TOWN shall include the use of the subject water system for the consumption and use of water for residential, commercial, industrial, manufacturing, institutional, governmental and all other similar or related purposes. In the area of fire protection services, the CITY's duties and responsibilities to the TOWN are limited solely to operating and maintaining in a reasonable manner the subject water system and any extensions thereof with the TOWN's corporate limits at a level substantially equal to the level of the TOWN's maintenance of the subject water system on the effective date of this Agreement. The TOWN or any authorized volunteer fire department may secure water from the subject water system and any extensions thereof for active fire fighting purposes under the same policies of the City as apply to the water system of the CITY in the unincorporated areas of Mecklenburg County.

b) Fire hydrants will be installed and maintained by the CITY under the same policies that apply in the unincorporated areas of Mecklenburg County. No additional fire hydrants will be installed to the subject water system, unless the TOWN agrees to bear the full expense of installing and maintaining such additional fire hydrants.

18. It is the intent of the TOWN and the CITY that the rights of any third party to recover in any action arising from the construction, operation and maintenance of the subject water and sewer system and any extensions thereof shall not be increased or decreased by the existence of this Agreement.

19. a) The TOWN shall transfer to the CITY reproducible copies of any and all records arising from the construction, operation and maintenance of the subject water and sewer systems and any other related activity, including but not limited to the following: construction contracts, drawings, maps, and all other related documents evidencing the condition or location of any portion of the subject water and sewer systems including such documents as may be in the possession of any engineer or other consultant of the TOWN; billing, collection and payment records on all present and past customers of the subject water and sewer systems; contracts or agreements for the supply of materials; pending applications for water and/or sewer service; contracts or agreements to provide water and/or sewer service currently in effect; receipts, accounts and other records of deposits made by all present and past customers of the subject water and sewer systems; repair and maintenance records and any warranty information on any property transferred to the CITY pursuant to this Agreement; repair and maintenance records for all portions of the subject water and sewer systems; plans, specifications, surveys, etc. for water and sewer facilities listed in Exhibit E. The TOWN shall also provide copies of such records as are necessary to inform the CITY of the location of all facilities of the TOWN for other utility operations. The Director of CMUD for the CITY and an appropriate designee for the TOWN shall determine mutually satisfactory, administrative details for the transfer of the above-referenced records, including but not limited to establishing the method for determining and rendering final water and/or sewer bills to customers of the subject water and sewer systems which are payable to the TOWN. Water and sewer services provided to customers of the subject water and sewer systems thereafter shall be payable to the CITY. The CITY may provide reasonable assistance to the TOWN in the TOWN's efforts to collect any final unpaid water and/or sewer bill of the TOWN, including but not limited to terminating water and/or sewer service to any delinquent customer or user. If such service is terminated, the CITY shall be under no obligation to renew or reconnect service to such customer or user until such unpaid bills from the TOWN and from the CITY have been fully satisfied. The Director of CMUD for the CITY and an appropriate designee for the TOWN shall also be responsible for determining all other details related to this transfer Agreement not specifically addressed in this Agreement, including, but not limited to, the date of transfer. Determining the date of transfer shall not be delayed unreasonably by either Party. Any agreement(s) necessary to effect the transfer of the subject water and sewer system, deposits, and any other assets to be transferred will be finalized and executed prior to the date of transfer.

b) Immediately upon the execution of this Agreement, the TOWN shall allow the CITY access to all portions of the subject water and sewer systems for purposes of inspecting the condition thereof. This sub-paragraph will be effective immediately upon the execution of this Agreement, as set forth in Paragraph 31(b).

20. After the date of transfer, all requests for new service installation shall be made directly to the CITY. Prior to the date of transfer and thereafter, the TOWN agrees to provide, or otherwise cooperate with the CITY in providing, information to residents of the TOWN and to customers or users of the subject water and sewer system concerning applicable procedures for requesting maintenance of service from the CITY.

21. Any and all deposits and advance payments made by customers or users of the subject water and sewer system to the TOWN shall be transferred to and shall become subject to the sole custody of the CITY. Such deposits and advance payments shall be treated by the CITY in the same manner as other deposits and advance payments made to the CITY by customers or users of the water and sewer system operated and maintained by the CITY within the CITY. The CITY will indemnify and hold the TOWN harmless for any claims against the TOWN for the refund of any deposit transferred to the CITY which the CITY wrongfully refuses to refund.

22. a) Within ten (10) days after the effective date of this Agreement, the TOWN shall identify all persons employed by the TOWN on a permanent, full-time basis who have substantial duties in the operation and maintenance of the subject water and sewer system as of the effective date of this Agreement. For each TOWN employee who wishes to transfer employment to the CITY and who consents, a complete copy of the personnel file of each such employee shall be provided along with such identification. The CITY will offer to hire each such employee in as similar position as possible to the position held with the TOWN and for which such employee is qualified. TOWN employees shall have fifteen (15) days to accept such offer. All TOWN employees who accept such offer will not suffer any loss in pay, annual or sick leave. Effective upon the date of transfer, such employees shall be employees of the CITY and shall be subject to all rules and regulations applicable to other employees of the CITY and CMUD. Prior to the date of transfer and after the acceptance of the CITY's offer of employment by each such employee, the TOWN shall transfer to the CITY any and all funds necessary for the payment of any accrued leave for each such employee. In the event an employee's salary is higher than the similar position into which he is being transferred, the employee's pay will be frozen at that level until such time as the maximum level for the particular position reaches or exceeds the employee's salary.

b) As a result of the transfer of employment of any TOWN employee pursuant to this Paragraph, the CITY shall not assume or be responsible in any manner for any benefits to which such employee may be entitled as a result of his/her employment with the TOWN. The CITY shall cooperate with the TOWN and such employee in determining the retirement benefits to which such employee is entitled from the TOWN. No determination of such benefit shall be made without the agreement of the TOWN, the CITY and such employee. Upon the effective transfer of such employee to the CITY, such employee shall become a member of the North Carolina Local Government Retirement System and shall make the necessary contributions thereto.

23. As of the date of transfer, all customers or users of the subject water and sewer system shall become subject to all rules, regulations and ordinances of the CITY as the same apply to all users and customers of the water and sewer system of the CITY, and as same are now or may hereafter be amended. Such rules, regulations and ordinances and schedule of rates, fees, charges and penalties shall constitute a part of the agreement between the CITY and any customer or user of the subject water and sewer system and any extensions thereof for the provision of water and/or sewer service.

24. Prior to the date of transfer and as a condition of entering into this Agreement, the TOWN shall adopt such ordinance or ordinances as are reasonably necessary to regulate the proper use of the subject water and sewer system and any extensions thereof by the customers and users within the jurisdiction of the TOWN. Any ordinance(s) adopted by the TOWN which is in substantial conformance with the ordinances of the CITY (Chapter 16 of the Code of the City, Exhibit C) regulating the use of the water and sewer system of the CITY shall be deemed to be in compliance with this Paragraph. The TOWN shall maintain and enforce such ordinance or ordinances. The CITY shall reimburse the TOWN for the reasonable expenses of enforcing such ordinance or ordinances. In the alternative, the TOWN may, by agreement with the CITY, designate one or more appropriate employees, officers or representatives of the CITY to enforce such ordinance or ordinances. In the event of substantial changes by CITY in Chapter 16 of the Code of the CITY, TOWN agrees to adopt comparable changes in TOWN code within sixty (60) days after notification by CITY.

25. a) The TOWN shall take such action as is reasonably necessary to assist the CITY in applying for and obtaining financial assistance, including Federal and/or State funds, for improving, maintaining or operating water and/or sewer facilities in or near the TOWN.

b) The TOWN and CITY shall take such actions as are reasonably necessary to comply with all applicable portions of this Agreement. The TOWN shall, if necessary, institute such civil or criminal actions, including condemnations, or shall consent to become a party in any action to which the CITY is a party, as may be necessary or expedient to implement this Agreement and/or to permit the operation and maintenance of any portion of the subject water and sewer system or the construction, operation and maintenance of any extension thereof.

26. a) Upon the date of transfer, the TOWN will discontinue the operation of a water and sewer system.

b) Such discontinuance is permanent and irrevocable, except as set forth herein.

c) No person or entity shall be allowed to operate or maintain a water and/or sewer system within the jurisdiction of the TOWN without a franchise to do so. This provision shall have no effect upon any person or entity lawfully operating a water and sewer system within the jurisdiction of the TOWN prior to the execution of this Agreement; provided that no extension of such water and/or sewer system shall be made without a franchise.

d) The TOWN shall not award a franchise to operate any water and/or sewer system within the TOWN in areas served by the CITY. If the CITY shall fail to provide water and/or sewer service to any area within the TOWN within a reasonable time after such request is made in accordance with the CITY's established extension policies or if reimbursement of a reimbursable extension under established extension policies is not sufficient, based upon reasonable forecast, to reimburse the cost of a reimbursable extension, the TOWN may award a franchise to operate a water and/or sewer system within the TOWN to serve only those areas which CMUD has failed to serve. For purposes of this Paragraph, "reasonable forecast" means a reasonable estimate by the Director of CMUD of the future revenues to CMUD to be generated by the requested reimbursable extension and the portion of said revenues which are reimbursable under established extension policies. The propriety of such determination by the Director of CMUD shall be an arbitratable claim or controversy under Paragraph 11. Said forecast shall be made in the same manner as the financial feasibility of extensions are determined under Paragraph 27(f)(iii). Reimbursement shall be deemed sufficient for purposes of this Paragraph if said reimbursement equals ninety percent (90%) of the cost of the reimbursable extension. Any franchise awarded by the TOWN for a water and/or sewer system shall require the owner and operator of the franchised system to: (1) secure all necessary permits prior to beginning operation; (2) operate in compliance with all applicable statutes, ordinances and regulations; (3) construct the distribution and/or collector portion of the franchised system according to standards adopted by CMUD at the time the franchise is awarded, begin construction on the franchised system within one year of the award of the franchise and complete construction within a reasonable time thereafter, construct extensions from the franchised system according to CMUD standards adopted at the time such extension is approved by the TOWN, and maintain and operate the franchised system in a reasonable and prudent manner; (4) connect to the water and/or sewer system of CMUD within one (1) year whenever any portion thereof is located within five hundred feet of the franchised system's treatment facility at the sole expense of the owner of the franchised system, subject to reimbursement under any applicable established extension policy, and cease operation of the treatment facility thereafter; and (5) transfer said system to the CITY for incorporation into the CMUD system upon the payment by the CITY to said owner of One Dollar (\$1.00) and thereafter, said franchised system shall be fully subject to this Agreement.

27. To the extent any provision of this Agreement is authorized solely by Article 20, Part 1 of Chapter 160A of the North Carolina General Statutes or other similar statutory authority authorizing interlocal cooperation between units of local government, the following provisions shall apply:

a) The purpose of this Agreement is to provide safe and sanitary water and sewer service within the TOWN, while relieving the TOWN of the financial burden of operating the subject water and sewer system and any extensions thereof, with the exception of provision 27(f) below.

b) This Agreement shall be perpetual. The TOWN and the CITY hereby agree that such perpetual duration is reasonable in light of the purposes of this Agreement.

c) No joint agency is established by this Agreement.

d) The CITY shall have the sole responsibility and authority to appoint or otherwise employ the personnel necessary for the implementation of this Agreement.

e) The responsibility for financing the construction, operation and maintenance of the subject water and sewer system and any extensions thereof shall be in accordance with the terms of this Agreement. The CITY shall be entitled to the receipt of all revenues from the subject water and sewer system and any extensions thereof.

f) i) Any extension to the subject water and sewer system or extensions thereof required by the TOWN shall be financed by the TOWN and shall be accomplished by contract between the TOWN and the CITY. Reasonable notice to proceed with such extensions will be provided to the CITY by the TOWN, such that applicable time limitations can be met; provided that, under no circumstances shall the CITY be liable to the TOWN for the payment of damages, penalties, fines or any other monetary recovery as a result of any failure to satisfy such time limitations.

ii) Reimbursement, if any, of the costs for such extensions will be provided by the CITY in accordance with established extension procedures which are otherwise applicable to customers of CMUD or to developers.

iii) As an alternative to the provisions of sub-section (f)(ii) above, the TOWN may finance under this sub-section any water and/or sewer system expansion or improvement which would be reimbursable under established extension procedures within the corporate limits of the TOWN or its extra-territorial jurisdiction which has the prior approval of the Director of CMUD based on technical engineering and financial feasibility, said approval not to be withheld unreasonably. If the TOWN finances said expansion or improvement by the issuance of general obligation bonds of the TOWN, said expansion or improvement shall be the property of the TOWN until said bonds are retired. Said expansion or improvement shall be leased to the CITY prior to being placed into operation through a new lease in compliance with the relevant provisions of Paragraph 3(b) above or by an addendum to any existing lease executed pursuant to said Paragraph. Each such new lease or addendum shall provide for payments by the CITY to the TOWN of sums sufficient to pay all of the TOWN's debt service on said bonds on an annual basis as and when such becomes due and payable. Upon the expiration of each lease arrangement, title to said expansion or improvement shall pass to the CITY upon payment of One Dollar (\$1.00) to the TOWN. All expenses of the TOWN in securing authority to issue said bonds and in issuing said bonds shall be the sole responsibility of the TOWN and shall not be reimbursed by the CITY in any manner. If the TOWN finances said expansion or improvement by any means other than the creation of debt, the preceding provisions of this sub-section shall fully apply; provided that, the term of the lease shall be fifteen (15) years with CITY making fifteen (15) equal payments,

one at the end of each year of the lease. Such payments shall total the cost of said expansion or improvement. If the TOWN proposes to use general obligation bonds to finance said expansion or improvement and after the TOWN has secured authority to issue said bonds, the TOWN shall notify the CITY in writing at least 60 days, but no less than 120 days, before the actual issuance of said bonds. Said notice shall contain the terms and conditions under which said bonds will be issued, including but not limited to the expected interest rate for said bonds. The CITY may, in its sole discretion, decide to finance said expansion or improvement through the issuance of general obligation bonds of the CITY or the use of any other available funds or means of financing said expansion or improvement. If the CITY decides to finance said expansion or improvement, written notice of such decision shall be given to the TOWN at least 30 days before the TOWN's issuance of its bonds or 30 days after receipt of the TOWN's notice of its intent to use bond financing, whichever date is later. Upon receipt of such notice the TOWN shall not issue such bonds. The CITY's decision to finance said expansion or improvement shall not unreasonably delay the beginning of construction thereof.

g) This Agreement may be amended only by a document in writing, approved by the City Council of the CITY and the Board of Commissioners of the TOWN, and executed by the Mayors of the CITY and TOWN.

h) This Agreement shall be terminated only upon the agreement of the CITY and TOWN following the procedure described for amending this Agreement.

28. Except as set forth in Paragraph 12, the CITY shall assume and honor all existing (as of the date of transfer) contracts and agreements with third parties previously entered into by the TOWN concerning the subject water and sewer system; provided that such contracts that require expenditure of CITY funds shall be reimbursed by TOWN in full within thirty (30) days after demand by CITY. Any such contract or agreement with third parties entered into by TOWN between the execution of this Agreement and the date of transfer shall require approval by the CITY.

29. All prior agreements and contracts between the CITY and TOWN regarding water and sewer service are rescinded as of the date of transfer. This Agreement contains the sole and entire agreement between the TOWN and the CITY regarding the provision of water and sewer service.

30. It is hereby declared to be the intention of the TOWN and the CITY that the paragraphs, sections, sentences, clauses and phrases of this Agreement are severable. If one or more paragraphs, sections, sentences, clauses, or phrases shall be declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the remaining provisions of this Agreement and the same shall continue to be fully effective and enforceable on the basis that said remaining provisions would have been agreed to by the CITY and the TOWN without the incorporation of such void, invalid or otherwise unenforceable paragraph, section, sentence, clause or phrase.

31. a) This Agreement shall become effective upon the following: (1) approval by the North Carolina General Assembly of a bill authorizing municipalities within Mecklenburg County to enter into agreements concerning annexation (Exhibit F or any bill substantially similar thereto); (2) approval by the TOWN and the CITY of a separate agreement designating areas which are not subject to annexation by one or more of the participating municipalities (Exhibit D); (3) adoption of a TOWN ordinance outlined in Paragraph 24 above; (4) approval and execution of this Agreement; (5) approval and execution by CITY and Mecklenburg County of an amendment to The Agreement Between the City of Charlotte and Mecklenburg County With Respect to the Establishment of a City-County Utility Department, dated January 17, 1972, that requires TOWN approval of utility extensions within area defined in the annexation agreement; the TOWN's extra territorial jurisdiction; (6) approval and execution of a substantially similar water and sewer agreement (except for the purchase of water intake and treatment facilities) with the Town of Cornelius and approval and execution of similar water and/or sewer agreements by each of the other four TOWNS in Mecklenburg County; and (7) approval by the voters of the TOWN of the transfer of the water system to the CITY under the terms of this Agreement. The TOWN and the CITY will use their best efforts to secure the passage of said bill (Exhibit F or any bill substantially similar thereto).

b) Notwithstanding the provisions of Paragraph 31(a) above, the provisions of Paragraphs 4(b) and 19(b) above shall be effective immediately upon the execution of this Agreement.

c) If this Agreement takes effect pursuant to the provisions of Paragraph 31(a) above, the earlier agreement between the TOWN and the CITY transferring the TOWN's sewer system only to the CITY shall be rescinded automatically and shall have no force and effect. No additional action by the TOWN and the CITY shall be necessary to rescind said earlier agreement. If this Agreement does not take effect pursuant to the provisions of Paragraph 31(a), this Agreement shall have no force and effect and said earlier agreement shall not be rescinded in any manner but shall remain in full force and effect according to its provisions.

32. Whenever written notice is required under this Agreement, said notice shall be sufficient when received by the municipal clerk of the party for whom such notice was intended. Said notice may be mailed or hand-delivered but shall not be effective unless actually received. If notice is mailed to the CITY, it shall be addressed as follows:

City Clerk City Hall 600 East Trade Street  
Charlotte, North Carolina 28202

If notice is mailed to the TOWN, it shall be addressed as follows:

Town Clerk Town Hall Davidson, North Carolina 28036

Either party may change its mailing address, by giving written notice of the new address. Unless so changed, the addresses set forth above shall apply.

This the 14th day of August, 1984.

CITY OF CHARLOTTE

ATTEST:

Pat Sharkey  
City Clerk

BY:

[Signature]  
Mayor

APPROVED AS TO FORM:

76 Michael J.  
City Attorney

TOWN OF DAVIDSON

ATTEST:

[Signature]  
Town Clerk

BY:

Nancy H. McCormac  
Mayor

APPROVED AS TO FORM:

Richard G. Kline  
Town Attorney



## RESOLUTION 2016-24

### REQUEST FOR ADDING WATER AND SEWER INFRASTRUCTURE TO CHARLOTTE WATER'S CAPITAL IMPROVEMENT PLAN

**WHEREAS**, Davidson Board of Commissioners approved the Town of Davidson's Rural Area Plan on September 13, 2016;

**WHEREAS**, Rural Area Plan recommends that the extension of sewer up the Rocky River basin makes logical and reasonable sense from the current terminus to East Rocky River Road (Rural Area Plan Pg. 85, Exhibit A - Rocky River Phase 1) and;

**WHEREAS**, Rural Area Plan notes that if sewer is provided North from East Rocky River Road to the county line at Iredell County, lot size can be varied and a greater diversity of home sizes and prices could be offered (Rural Area Plan Pg. 86, Exhibit A - Rocky River Phase 2) and;

**WHEREAS**, The extension of sewer into the West Branch of the Rocky River basin permits the natural extension of town one mile further east and permits new compact, walkable neighborhoods to form and be supported by viable mixed-use neighborhood centers (Rural Area Plan Pg. 87, Exhibit A - West Branch Rocky River) and;

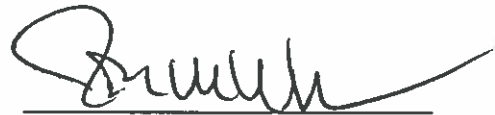
**WHEREAS**, The extension of sewer in the West Branch area clarifies landowners' land use expectations while affording the Town an opportunity to fulfill long-standing goals of organic growth, compact development, walkable neighborhoods, and open space conservation (Rural Area Plan Pg. 87, Exhibit A - West Branch Rocky River);

**WHEREAS**, Staff recommends that the Rocky River Phase 1 and West Branch Rocky River (Exhibit A) be classified as ten-year need project in the Capital Improvement Plan by Charlotte Water and;

**WHEREAS**, Staff further recommends that the Rocky River Phase 2 (Exhibit A) be classified as a ten-year need project in the Capital Improvement Plan by Charlotte Water due to priorities established in the Rural Area Plan;

**NOW, THEREFORE, BE IT RESOLVED** that the Town of Davidson Board of Commissioners supports the Town of Davidson Rural Area Plan recommendations and formally requests that Charlotte Water add Rocky River Phase 1, Rocky River Phase 2 and West Branch Rocky River (noted on Exhibit A) to the Capital Improvement Plan as a reimbursable for future infrastructure to accommodate future planning and engineering needs.

Adopted this 13<sup>th</sup> day of December, 2016.

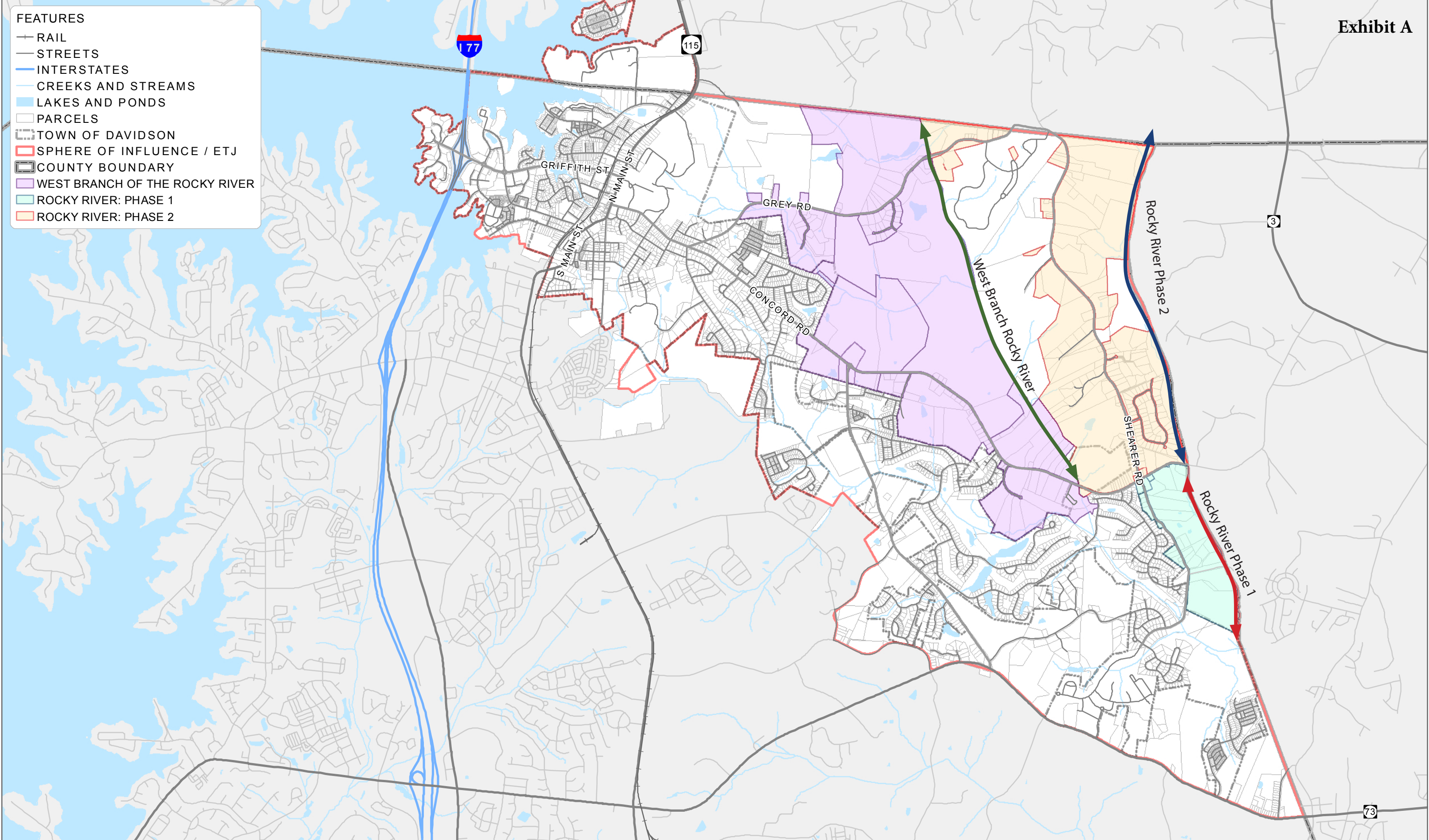
  
John M. Woods, Mayor

ATTESTED:



Carmen Clemsic, Town Clerk

- FEATURES
- RAIL
  - STREETS
  - INTERSTATES
  - CREEKS AND STREAMS
  - LAKES AND PONDS
  - PARCELS
  - TOWN OF DAVIDSON
  - SPHERE OF INFLUENCE / ETJ
  - COUNTY BOUNDARY
  - WEST BRANCH OF THE ROCKY RIVER
  - ROCKY RIVER: PHASE 1
  - ROCKY RIVER: PHASE 2

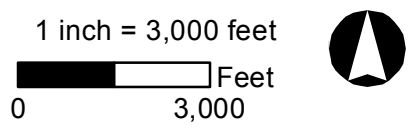


Date: 10/21/2016  
DATA SOURCE: NC ONE MAP; MECKLENBURG COUNTY, NC;  
AND DATA CREATED BY THE TOWN OF DAVIDSON

# POPULATION ESTIMATE ZONES

## TOWN OF DAVIDSON

NORTH CAROLINA



This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



**DRAFT – 6/5/2018**

**A RESOLUTION OF THE TOWN OF DAVIDSON  
SETTING FORTH A WATER AND SEWER EXTENSION POLICY**

**WHEREAS**, the Town of Davidson and the City of Charlotte entered into an Agreement, a copy of which is attached to this Resolution, in which the Town and City agreed that, as consideration for transfer of the Town's water and sewer system to the City that the Town would retain the right to approve or deny water and sewer extensions to property located within the Town, or its extra-territorial jurisdiction, and

**WHEREAS**, property located within Town, or its extra territorial jurisdiction, may not be served with water or sewer service by the extension of any line without written approval of the Town, and,

**WHEREAS**, the Town Board of Commissioners has authority to limit extension of water and sewer services so long as they do not act for personal gain or in an arbitrary or discriminating manner, and,

**WHEREAS**, the Comprehensive Plan states that growth should not negatively impact sensitive environmental resources and growth should not place significant additional burdens on public services or infrastructure, and,

**WHEREAS**, the Town Board of Commissioners desires to control how and when urban growth occurs within its borders by instituting local growth measures, which include adoption of a water and sewer extension policy.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the Town of Davidson that:

**1. Statement of Intent.**

As stated in the Davidson Planning Ordinance, Davidson is a livable and walkable community because it chooses to rigorously manage growth. The Town of Davidson intends to permit the extension of water and sewer services so as to provide for managed growth that is in the best interests of the citizens of the Town.

**2. Policy Statement.**

The Town Board shall consider water and sewer requests for developments that adhere to the requirements of the Davidson Planning Ordinance. In addition, the Board may approve or deny requests based on whether the extension is in the best interests of the community and in compliance with all the terms and conditions of the Davidson Planning Ordinance.



### **3. Rationale.**

In making that determination, the Board may consider factors such as current traffic congestion in the area of the new lines and whether construction of new lines traversing town blocks will significantly increase traffic congestion, extra costs to the Town associated with traffic control during installation, the effect of new lines on the existing natural environment, particularly the loss of trees, other health and safety concerns of citizens in the immediate vicinity of the new lines and/or development, the burden on existing infrastructure of new development which can occur at higher densities with the provision of water and sewer.

### **4. Applicable Areas to this Policy.**

The terms of this Policy shall apply to the extension of water and sewer lines to serve all vacant land, houses, buildings, and all other real property, located within the Town limits, and the Town's extra-territorial jurisdiction not presently served with water and/or sewer. This Policy will not apply to development projects with previously established vested rights.

### **5. Effective Date.**

The provision of this Policy shall take effect as of the date of this Resolution.

### **6. Severability.**

If any term or provision of this Resolution or if any rule or regulation is found to be invalid or unenforceable by a court of competent jurisdiction or by operation of applicable law, such invalid or unenforceable term or provision shall not affect the validity of the remainder of this Resolution.

Adopted on the \_\_\_\_ day of \_\_\_\_ 2018.

\_\_\_\_\_  
Rusty Knox, Mayor

**Attest:**

\_\_\_\_\_  
Elizabeth K. Shores, Town Clerk



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**Agenda Title: Consider Approval of Water/Sewer Policy Requests  
Town Manager Jamie Justice**

**Summary:** Under the town's agreement with Charlotte Water, the town approves any water and sewer extension (extension of water and sewer lines to serve a property that is not a connection to existing lines adjacent to a property) to service a property. There are two extension requests that would be applicable under the June 5, 2018 draft policy should this policy be approved earlier in this August 28, 2018 Board meeting agenda. The Board should consider each one individually:

1. Mayes Hall. The developers of Mayes Hall propose +/-66 dwelling units on 24 acres in the Neighborhood Edge Planning Area. PID: 00716206, 00716286, 00716207.
2. Potts Development. The developers of Potts Development propose +/-250 multi-family dwelling units on 15.441 acres in the Village Infill Planning Area. PID: 00320511, 00320536, 00324101.

**Summary:**

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**ATTACHMENTS:**

Description	Upload Date	Type
❑ 1. Agenda Memo - Mayes Hall	8/22/2018	Cover Memo
❑ 1. Mayes Hall Reference Map	8/22/2018	Backup Material
❑ 1. Mayes Hall request letter	8/22/2018	Backup Material
❑ 1. Mayes Hall Accessibility Letter	8/23/2018	Backup Material
❑ 2. Agenda Memo - Potts Development	8/23/2018	Cover Memo
❑ 2. Potts Development Reference Map	8/23/2018	Cover Memo



## Water/Sewer Request for Proposed Mayes Hall Master Plan Development

To: Davidson Board of Commissioners  
From: Jamie Justice, Town Manager  
Date: August 28, 2018  
Re: Water/Sewer Extension Request

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### 1. OVERVIEW

At the August 28, 2018 meeting, the Board of Commissioners is expected to formalize a water/sewer extension policy. The town retained the authority to grant or deny extensions per its agreement with Charlotte Water. The Board has asked that all projects currently under development that require an extension submit a formal request for water/sewer.

The developers of Mayes Hall propose +/-66 dwelling units on 24 acres in the Neighborhood Edge Planning Area. PID: 00716206, 00716286, 00716207.

### 2. RELATED TOWN GOALS

#### *STRATEGIC PLAN:*

Change land use regulations –Examine tools available to slow growth (i.e. water/sewer policy)

#### *CORE VALUE:*

Davidson's historic mix of people in all income levels and ages is fundamental to our community, so town government will encourage opportunities, services, and infrastructure that allow people of all means to live and work here.

### 3. OPTIONS/PROS & CONS

Pros: Realistic expectations for property owner, developer, and citizens

Cons: N/A

### 4. FYI or RECOMMENDED ACTION

Approve or disapprove action on permitting a water/sewer extension to the proposed development.

### 5. NEXT STEPS

If approved, the project would continue with the master planning process per the Davidson Planning Ordinance.

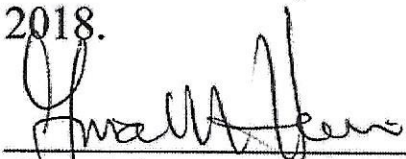


August 28, 2018

Honorable Mayor Rusty Knox  
Town of Davidson Commissioners  
Whom It May Concern  
Town of Davidson, NC

Re: Mayes Hall

I, Gina Mayes Harris, represent the land owners of the approximate 24 acres to be known as Mayes Hall. The 24 acres are comprised of parcel numbers 00716206, 00716286 and 00716207. We are under contract to sell the property to Bayard Development, LLC (Bayard). Bayard has had the property under contract for over one year. The property is zoned Neighborhood Edge and Bayard is currently proceeding through the Town of Davidson master plan process under the Neighborhood Edge zoning classification. The projected timeline of completion of the master plan process is December, 2018.



8/21/2018

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Gina Mayes Harris

I, Timothy F. Coey, am a partner in Bayard Development, LLC. In addition, Bayard has a partnership with Simonini Homes for this Mayes Hall community. The partnership of Bayard/Simonini intends to develop a high end residential community with homesites marketed toward the empty nester buyer. Assuming completion of the master plan process in December we would anticipate development of the community beginning in summer of 2019 and home sales to begin in 2020. We intend to comply totally with the Neighborhood Edge zoning specifications requiring a thorough mix of lot sizes and

home types with extensive landscaping and walking trails. We look forward to a community that we and the town can be proud of.

A handwritten signature in dark ink, appearing to read "T. F. Coey", written in a cursive style.

---

Timothy F. Coey



August 23, 2018

Colin Jenest

ColeJenest & Stone, PA

200 South Tryon Street, Suite 1400

Charlotte, NC, 28202

**SUBJECT: WATER AND SEWER ACCESSIBILITY**  
**PARCEL - 00716207**  
**13415 MAYES ROAD**

Proximity to Existing Water and Sewer Infrastructure

The above mentioned tax parcel 00716207 has been reviewed by Charlotte Water (CW) to determine proximity to Charlotte Water maintained infrastructure. A 12" water line is located along Mayes Road and contiguous to parcel. Sewer infrastructure is located in Davidson Park Drive and can be accessed via existing a 15' Sanitary Sewer Easement dedicated to Charlotte Water from a previous project.

Any required water or sewer extensions would be the responsibility of the developer. Please visit <http://charlottenc.gov/Water/Development/NewTaps/Pages/InstallationDevelopmentServices.aspx> for more information on extending water and/or sewer through a Standard Developer Funded Contract.

This sheet indicates the findings of a cursory review of Utilities System Information for the presence or absence of public water or wastewater infrastructure only. The findings do not imply available capacity in water and sanitary sewer lines, pump stations, or treatment facilities. Reservation of capacity is achieved through the Charlotte Water's Capacity Assurance Program.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Garbark", with a long horizontal flourish extending to the right.

**N Michael Garbark, PE**

IDS Division Manager – Charlotte Water



## Water/Sewer Request for Proposed Potts Master Plan Development

To: Davidson Board of Commissioners  
From: Jamie Justice, Town Manager  
Date: August 28, 2018  
Re: Water/Sewer Extension Request – Potts Master Plan Development

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### 1. OVERVIEW

At the August 28, 2018 meeting, the Board of Commissioners is expected to formalize a water/sewer extension policy. The town retained the authority to grant or deny extensions per its agreement with Charlotte Water. The Board has asked that all projects currently under development that require an extension submit a formal request for water/sewer.

The developers of Potts Development propose +/-250 multi-family dwelling units on 15.441 acres in the Village Infill Planning Area. PID: 00320511, 00320536, 00324101. At this juncture, it is undetermined if water and sewer services to the site will be an extension or a connection. It is suggested that this be considered and decided contingent upon if it is to be determined to be an extension.

### 2. RELATED TOWN GOALS

#### *STRATEGIC PLAN:*

Change land use regulations – Examine tools available to slow growth (i.e. water/sewer policy)

#### *CORE VALUE:*

Davidson's historic mix of people in all income levels and ages is fundamental to our community, so town government will encourage opportunities, services, and infrastructure that allow people of all means to live and work here.

### 3. OPTIONS/PROS & CONS

Pros: Realistic expectations for property owner, developer, and citizens

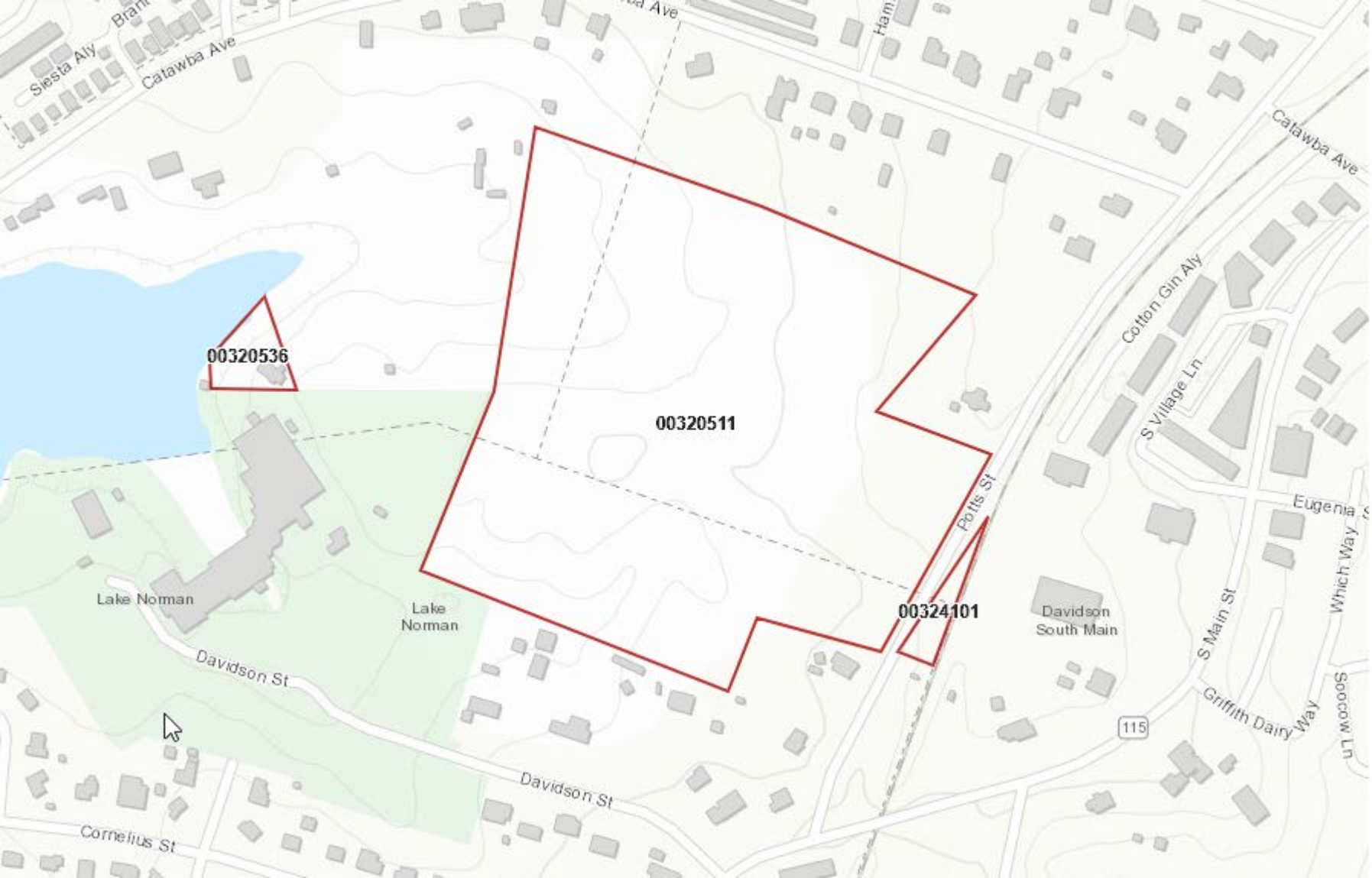
Cons: N/A

### 4. FYI or RECOMMENDED ACTION

Approve or disapprove action on permitting a water/sewer extension to the proposed development contingent upon it being determined an extension.

### 5. NEXT STEPS

If approved, the project would continue with the master planning process per the Davidson Planning Ordinance.



00320536

00320511

00324101



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**Agenda Title: Consider Approval of Annexation Policy  
Town Manager Jamie Justice**

**Summary:** The annexation policy outlines both the policies under which voluntary annexations will be considered and the process for voluntary annexation requests. The decision to approve a voluntary annexation request is at the Board's discretion. The process for the annexation is outlined in state statutes. This is a process that the town has followed for many years, but, other than the procedural forms prescribed by statute, has not been codified in a written policy.

**Summary:**

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**ATTACHMENTS:**

<b>Description</b>	<b>Upload Date</b>	<b>Type</b>
☐ Agenda Memo - Draft Annexation Policy	8/24/2018	Cover Memo
☐ DRAFT - Annexation Policy 8-2-18	8/23/2018	Cover Memo



## Draft Annexation Policy

To: Davidson Board of Commissioners  
From: Jamie Justice, Town Manager  
Date: August 28, 2018  
Re: Draft Annexation Policy

---

### 1. OVERVIEW

Annexation is the accepting of a property into the city limits of a municipality. Annexation is governed by state law. State law significantly limits the ability of towns to do involuntary annexations. However, voluntary annexations are still allowable by law and are very common annexations that occur with towns across the state. The process for voluntary annexations is well defined by the state statute.

Staff was asked to bring forth a draft annexation policy for the town board to consider. A draft was created for consideration and was reviewed with the town board at the August 7, 2018 board meeting. The board decided to consider approving the Draft Annexation Policy at the August 28, 2018 board meeting.

Attached to the agenda is the Draft Annexation Policy.

### 2. RELATED TOWN GOALS

#### **Strategic Plan:**

Land Use Goal: the town of Davidson will align land-use policies including revision of development processes, zoning, and regulations to preserve our architectural history, manage residential growth, reduce the scale of future development, and enhance downtown (i.e., connect North and South Main streets).

#### **Core Value(s):**

- Davidson's traditional character is that of a small, historic college town, so land planning will reflect its historic patterns of village-centered growth including connection of neighborhoods, preservation of our historic resources, conservation of rural area, and provision of public spaces.
- Davidson's economic health is essential to its remaining a sustainable community, so town government will judiciously encourage and guide the location of new business opportunities.
- Citizens entrust town government with the stewardship of public funds, so government will provide high quality services at a reasonable cost.

#### **Constituents served:**

All citizens.

### 3. OPTIONS/PROS & CONS

#### **Option 1: Approve the Draft Annexation Policy.**

Pros:

A written policy is created to replace the unwritten policy.

New criteria for viewing annexation requests is created and can be used to consider future annexation requests.

The Board makes the annexation decision directly for growth management purposes.

Cons:

None.

#### **Option 2: Defer action until after the September 20<sup>th</sup>, 2018 mini-retreat.**

Pros:

Allows for further study of the policy options.

Allows for full review of all the growth management tools so the annexation policy option can be considered with all the options.

Cons:

Continues the uncertainty.

#### **Option 3: Do nothing which results in the current unwritten annexation process remaining in place.**

Pros:

Allows the unwritten policy to continue.

Cons:

No written policy is created to replace the unwritten policy.

The new criteria for viewing annexation requests is not created and used to consider future annexation requests.

### 4. FYI or RECOMMENDED ACTION

It is recommended that the town board select Option 1 and approve the Draft Annexation Policy.

### 5. NEXT STEPS

If the Board approves Option 1, the policy would go into effect immediately.

## **DRAFT 8-7-18 Annexation Policy**

This document outlines both the **policies** under which voluntary annexation requests will be considered and reviewed and **processes** for voluntary annexation requests. It is the policy of the Town of Davidson to review and consider annexation individually according to the terms and conditions of this policy. Decisions to annex shall be at the discretion of the Town Board, and the decision regarding any annexation does not cause a precedence to be set for future consideration of annexation.

**I. Policies for Voluntary Contiguous Annexation** – Petitions for voluntary annexation of parcels that are adjacent to the primary corporate limits will be evaluated based on the following criteria:

1. Minimum requirements – all requirements of applicable state statutes (§160A-31) and the Davidson Planning Ordinance must be met.
  - 1.1 The proposed annexation must be consistent with the Comprehensive Plan and any applicable adopted Land Use Plans.
  - 1.2 The proposed annexation is in compliance with any annexation agreements with neighboring jurisdictions, if applicable.
2. Boundaries
  - 2.1 A boundary of the proposed annexation area should be contiguous with the primary corporate limits.
3. Impacts on Town Services
  - 3.1 The costs of extending town services to a newly annexed area should not substantially outweigh the economic benefits of the annexation to the town.
  - 3.2 The extension of town services to a newly annexed area should not have a substantial negative impact on the provision of town services elsewhere.
  - 3.3 The town must be able to provide the same level of service to the proposed annexation area as it does within the primary corporate limits.

#### 4. Capacity of Infrastructure

4.1 Development associated with an annexation shall have appropriate water and sewer services, the cost of which shall be borne by the applicant/developer. The developer shall provide evidence from Charlotte Water or other Water and Sewer Utility that sufficient capacity exists to serve the proposed development.

#### 5. Exceptions

5.1 Except for criteria identified as “minimum requirements”, all other evaluation criteria may be waived or varied if the Town Board of Commissioners determines that either of the following conditions exists:

- (a) A petitioner would experience a significant non-financial hardship if the annexation was not approved.
- (b) Under the facts of the petition, the town’s interests are better served by waiving or varying one or more of these criteria.

5.2 Compliance with these criteria does not guarantee approval of annexation requests.

## **II. Policies for Voluntary Noncontiguous Annexation** – Petitions for voluntary annexation of parcels that are not adjacent to the primary corporate limits will be evaluated based on the following criteria:

### **1. Minimum requirements** – all requirements of applicable state statutes (§160A-58) and the Davidson Planning Ordinance must be met.

1.1 The closest point of the proposed annexation area must be within 3 miles of the primary corporate limits.

1.2 The proposed annexation is in compliance with any annexation agreements with neighboring jurisdictions, if applicable.

1.3 No point of the proposed annexation area may be closer to another municipality than to Davidson.

- 1.4 When a proposed annexation area is added, the total land area of all satellite annexations must be less than 10% of the total land area within the primary corporate limits.
- 1.5 The town must be able to provide the same level of service to the proposed annexation area as it does within the primary corporate limits.
- 1.6 If the proposed annexation area includes a subdivision as defined by state statutes, the annexation area must include the entire subdivision.
- 1.7 The proposed annexation must be consistent with the Comprehensive Plan and any applicable adopted Land Use Plan.

### **III. Procedures for Voluntary Annexation Requests**

Petitions for annexation are submitted in duplicate to both the Town Clerk and the Town Manager (or designee). Applicants should submit the original completed application to the Town Clerk and a copy to the Public Works Department. The application submitted to the Town Clerk should be accompanied by the required fee (as established by the most current fee schedule). Upon receiving an application, staff will review it for completeness and an “official acceptance” will be issued to the applicant.

Once a completed application is accepted, it will be routed to various town departments for review and consideration. The annexation request will be scheduled for the required meetings and hearings before Town Board.

There are several public hearings and public meetings involved in the voluntary annexation process:

1. Investigation of Sufficiency – Once a petition for annexation has been submitted, the Town Board must direct the Clerk to investigate the sufficiency of the petition in accordance with §160A-31 prior to any further review. Should the petition and/or any portion of the required additional information be found to be incomplete or inaccurate at the time submitted or during the review process, the petition will be returned to the applicant for completion or to correct the inaccurate information. The revised petition and required additional information may be resubmitted to the Town Clerk for processing again. There is not public hearing at this meeting, and it is not necessary for the petitioner/agent to attend.

Upon reviewing the information, the Clerk will certify the results.

2. Resolution Establishing Public Hearing – The Town Board must establish a date for a public hearing. At this meeting, no public hearing will be held and it is not necessary for the applicant/agent to attend.

The signed resolution is a requirement prior to the scheduling of public hearing to consider the annexation. Following the adoption of the resolution, the Town Clerk will publish notice of the annexation public hearing in the local newspaper, at least 10 days in advance of the hearing date.

3. Town Board – The Town Board will hold a public hearing on the requested annexation. Commissioners will consider the recommendations of staff and receive any additional information relative to the annexation request.

Commissioners will also hear objections to or approvals of the annexation from owners/residents of the property proposed by annexation; by state statute, Commissioners may limit the public hearing to only current town residents/property owners and those who reside on and/or own the property proposed for annexation. The Town Board will set the effective date for the annexation, if approved, for the first day of the next month following the month in which public hearing was held.

#### Fees and Expenses

Regardless of the final action (approval or denial) by the Town Board, the applicant(s), or the designated representative of the applicant(s) requesting the annexation, shall be responsible for all fees covering the cost of advertising, mailing notices, posting signs, recording fees and any other administrative expenses involved in the annexation process. The signing of the petition for the annexation shall indicate the applicant's (or the designated representative's) acceptance of this responsibility.

#### Staff Review

Citizens wishing to petition for annexation of property contiguous to the town limits may submit a petition signed by each of the property owners within the area to be annexed. Once staff has determined that the petition is complete, it will be routed to various town departments for review. Staff review of the applications results in a "Staff Analysis" that is forwarded to the Town Board. In addition to

the policy guidelines stated above, staff will review the application for the following elements:

- Vested zoning rights – any vested zoning rights should be disclosed.
- Metes and bounds description – a metes and bounds description must be approved by the Town attorney PRIOR to submitting a petition to the Clerk. Without an approved legal description, the review process will not be started.
- Development program – A worksheet is included in the annexation application and should be completed by the petitioner and should include a development time line.

**Failure to address these requirements will result in a staff recommendation of denial.**

Water and sewer services may need to be extended to the area, which may result in a significant cost to the petitioners. Petitioners must contact Charlotte Water or other Water and Sewer Authority to determine the need for utility extensions. An application should provide evidence that Charlotte Water or other utility has been contacted regarding water and sewer extensions and verification that sufficient capacity exists for the proposed development.

Extensions require approval from the Town Board prior to petitioning for voluntary annexation.

STATE OF NORTH CAROLINA  
MECKLENBURG COUNTY

DATE: \_\_\_\_\_

**PETITION FOR VOLUNTARY CONTIGUOUS ANNEXATION**

TO THE HONORABLE MAYOR AND TOWN BOARD OF COMMISSIONERS OF  
THE TOWN OF DAVIDSON, NORTH CAROLINA:

1. We, the undersigned owners of real property believe that the area described in paragraph 2 below meets the requirements of G.S 160A-31 and respectfully request that the area described in paragraph 2 below be annexed to the Town of Davidson.
2. The area to be annexed is contiguous to the Town of Davidson, and the boundaries of such territory are as follows:

(A legally acceptable description of the property must be inserted here, after it has been approved by the Town Attorney.)

WHEREFORE, your petitioner(s) respectfully requests that the aforementioned property be annexed by the Town of Davidson, North Carolina.

IN WITNESS WHEREOF, your petitioner(s) has caused this instrument to be executed on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

**PETITIONER(S)**

(This petition must be signed by the owners of each parcel proposed for annexation; attach additional sheets, if necessary)

Name

Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(NOTE: If the property is owned by a corporation or entity other than a private individual, a responsible corporate officer must sign as petitioner with an attestation by a second corporate officer and the corporate seal affixed. In addition, the execution of the **petition must be notarized.**)

Accuracy of Legal Description Approved:

\_\_\_\_\_  
Town Attorney

## PETITION FOR VOLUNTARY CONTIGUOUS ANNEXATION

**Submittal Checklist – All items on the checklist must be submitted in order for the petition to be accepted and scheduled for consideration. If any items are not included, the Town Clerk will reject the petition.**

\_\_\_\_\_ Annexation petition, signed by either property owners or residents.

If the deed has multiple owners, such as a husband and wife, then all individuals must sign this petition form. Attach the copy of the deed of each property to the corresponding petition sheet. The original copies with signatures must be submitted to the Town Clerk. If the property is owned by a corporation or entity other than a private individual, a responsible corporate officer must sign as petitioner with an attestation by a second corporate officer and the corporate seal affixed.

\_\_\_\_\_ Metes and bounds description, APPROVED BY TOWN ATTORNEY.

\_\_\_\_\_ Annexation petition fee.

\_\_\_\_\_ List of parcels to be annexed, including the tax parcel number, property owner, and property owner mailing address for each parcel.

\_\_\_\_\_ List of parcels adjacent to those proposed to be annexed, including parcels separated from the annexation property by a street or rail right-of-way.

\_\_\_\_\_ Two sets of business-size envelopes pre-addressed to the adjacent property owners with the Town's return address (PO Box 579, Davidson, North Carolina 28036). All envelopes must have postage and metered postage must be *undated*.

\_\_\_\_\_ A current to-scale copy of a Mecklenburg County tax map highlighting the petitioned property and the current town limits.

\_\_\_\_\_ Map to be recorded with the Mecklenburg County Register of Deeds.

\_\_\_\_\_ Letter from Charlotte Water (or other utility) stating that sufficient capacity exists to serve the proposed development and whether an extension or connections is required.

STATE OF NORTH CAROLINA  
MECKLENBURG COUNTY

DATE: \_\_\_\_\_

**PETITION FOR VOLUNTARY NONCONTIGUOUS ANNEXATION**

TO THE HONORABLE MAYOR AND TOWN BOARD OF COMMISSIONERS OF  
THE TOWN OF DAVIDSON, NORTH CAROLINA:

1. We, the undersigned owners of real property believe that the area described in paragraph 2 below meets the requirements of G.S. 160A-58.1 and respectfully request that the area described in paragraph 2 below be annexed to the town of Davidson.
2. The area to be annexed is contiguous to the town of Davidson, and the boundaries of such territory are as follows:

(A legally acceptable description of the property must be inserted here, after it has been approved by the Town Attorney).

WHEREFORE, your petitioner(s) respectfully requests that the aforementioned property be annexed by the Town of Davidson, North Carolina.

IN WITNESS WHEREOF, your petitioner(s) has caused this instrument to be executed on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

**PETITIONER(S)**

(This petition must be signed by the owners of each parcel proposed for annexation; attach additional sheets, if necessary)

Name

Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(NOTE: If the property is owned by a corporation or entity other than a private individual, a responsible corporate officer must sign as petitioner with an attestation by a second corporate officer and the corporate seal affixed. In addition, the execution of the **petition must be notarized.**)

Accuracy of Legal Description Approved:

\_\_\_\_\_  
Town Attorney

## PETITION FOR VOLUNTARY NONCONTIGUOUS ANNEXATION

**Submittal Checklist – All items on the checklist must be submitted in order for the petition to be accepted and scheduled for consideration. If any items are not included, the Town Clerk will reject the petition.**

\_\_\_\_\_ Annexation petition, signed by each property owner within the proposed satellite annexation area.

If the deed has multiple owners, such as a husband and wife, then all individuals must sign this petition form. Attach the copy of the deed of each property to the corresponding petition sheet. The original application with original signatures must be submitted to the Town Clerk and a duplicate copy submitted to the Planning Division. If the property is owned by a corporation or entity other than a private individual, a responsible corporate officer must sign as petitioner with an attestation by a second corporate officer and the corporate seal affixed.

\_\_\_\_\_ Metes and bounds description, APPROVED BY TOWN ATTORNEY.

\_\_\_\_\_ Map showing the area proposed for annexation with relation to the primary town limits; this map must include the distance of the proposed satellite annexation area to the primary town limits and from what point it is calculated.

If the proposed annexation is within close proximity to a town other than Davidson, the map must also show the distance of the proposed satellite to the other town's limits.

\_\_\_\_\_ Annexation petition fee.

\_\_\_\_\_ List of parcels to be annexed, including the tax parcel number, property owner, and property owner mailing address for each parcel.

\_\_\_\_\_ Lists of parcels adjacent to those proposed to be annexed, including parcels separated from the annexation property by a street or rail right-of-way.

\_\_\_\_\_ Two sets of business-size envelopes pre-addressed to the adjacent property owners with the Town's return address (PO Box 579, Davidson, North Carolina 28036). All envelopes must have postage and metered postage must be *undated*.

\_\_\_\_\_ A current to-scale copy of a Mecklenburg County tax map highlighting the petitioned property and the current city limits.

\_\_\_\_\_ Map to be recorded with the Mecklenburg County Register of Deeds.

\_\_\_\_\_ Letter from Charlotte Water (or other utility) stating that sufficient capacity exists for proposed development and whether a water or sewer extension or connection will be required.

DRAFT



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**Agenda Title: Discussion on Sidewalk Projects  
Public Works Director Doug Wright**

**Summary:** The town has three sidewalk projects that are shovel-ready, and one project that is shovel-ready, except for property acquisition. We currently have \$300,000 allocated for sidewalk projects – monies from FY2018 & FY2019. We are seeking input on which project(s) to start, and potentially how to fund them.

**Summary:**

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**ATTACHMENTS:**

Description	Upload Date	Type
☐ Agenda Memo - Sidewalk Projects	8/27/2018	Cover Memo
☐ Presentation - Sidewalk Projects 8-28-18	8/27/2018	Cover Memo



## 2018 Sidewalk Projects

To: Davidson Board of Commissioners  
From: Doug Wright, Public Works Director  
Date: August 28, 2018  
Re: Sidewalk Projects 2018

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### 1. OVERVIEW

The town has three sidewalk projects that are shovel-ready, and one project that is shovel-ready, except for property acquisition.

We currently have \$300,000 allocated for sidewalk projects – monies from FY2018 & FY2019.

The estimate to complete the four projects is \$702,510.

The projects include:

- Grey Rd
- Spring St
- Delburg St
- Catawba Ave

We are seeking input on which project(s) to start, and potentially how to fund them.

### 2. RELATED TOWN GOALS

#### Core values:

Citizens need to move easily throughout the town and region, so government will provide a variety of options, such as sidewalks, bike paths, greenways, connected streets, and transit.

#### Strategic Plan:

Goal 7 Mobility/Transportation - The Town of Davidson will enable citizens to move freely throughout town via transit, car, bicycle, and on foot.

#### Constituent served:

All citizens.

### 3. OPTIONS/PROS & CONS

#### There are 3 options:

##### **Option 1:**

Allocate fund balance to build Grey Rd and Spring St sidewalk

##### **Option 2:**

Allocate fund balance to fund Delburg & Catawba sidewalk construction

**Option 3:**

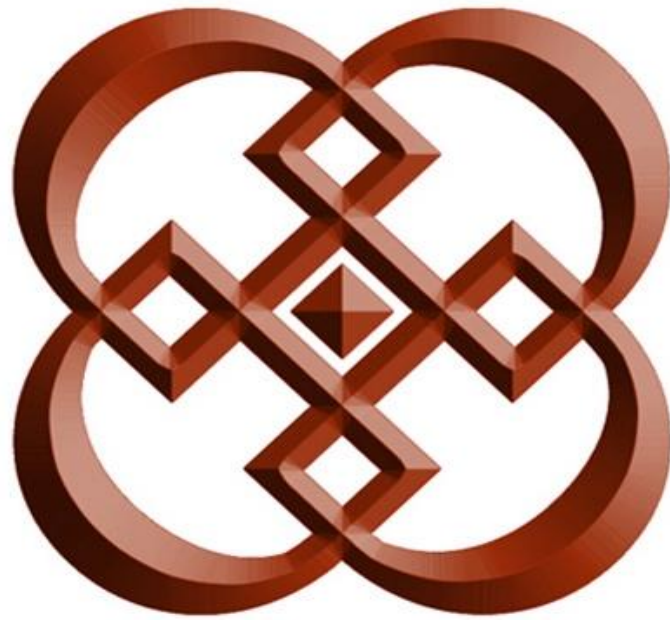
Some other option

**4. FYI or RECOMMENDED ACTION**

All the projects are worthwhile. Grey Rd has been in process longer than the others, and is a more dangerous walking environment than the others.

**5. NEXT STEPS**

Determine projects to be funded and bid out



# *The* Town *of* Davidson

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# Sidewalk Projects

- Grey Rd (Concord RD to Wolfe St)
- Delburg St (Watson St to Beaty St)
- Catawba Ave (Potts St to town limit)
- Spring St (Walnut St to South St)



**Sidewalk Budget**

**2017-18**

<b>Expense</b>	<b>FY17</b>	<b>FY18</b>
Grey Rd design	\$12,076.00	\$394.00
Grey Rd Property acquisition		\$21,000.00
Catawba Ave & Delburg St design		\$9,325.00
		\$45,915.00
Armour St Sidewalk construction	\$95,680.50	
	\$9,575.00	
Apolinaire Dr sidewalk construction	\$53,032.00	
Peninsula Dr sidewalk construction	\$11,770.00	
Spring St design		\$13,950.00
Mock Rd construction		\$48,300.00
Misc	\$17,760.48	
YTD	\$199,893.98	\$138,884.00



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Sidewalk Projects  
Public Works Department  
August 28, 2018

		<u>Curb &amp; Gutter</u>	<u>Sidewalk</u>	<u>Both Sidewalk and C&amp;G</u>
Grey Rd		\$396,174.00	\$175,580.00	\$487,276.00
Delburg				
	North Side	\$27,105.00	\$108,185.00	\$135,290.00
	Both Sides	\$73,400.00		\$335,649.00
Catawba Av (South Side)		\$256,744.00	\$59,944.00	\$316,688.00
Spring St				\$20,000.00
\$300,000 funded FY18 & FY19				
Option 1	Grey Rd, Spring St		add't \$205,000 from fund balance	
Option 2	Delburg St north side, Catawba Ave south side			