



**TOWN OF DAVIDSON
PLANNING BOARD
Board Room
Davidson Town Hall
May 21, 2018**

PLANNING BOARD MEETING - 7:00 PM

(Held in the Town Hall Board Room)

I. CALL TO ORDER

II. SILENT ROLL CALL AND DETERMINATION OF QUORUM

III. CHANGES TO THE AGENDA

IV. REVIEW/APPROVAL OF THE MINUTES

- (a) April 30, 2018 Minutes

V. B.O.C. LIAISON REPORT

VI. OLD BUSINESS

- (a) Mobility Plan Update

VII. NEW BUSINESS

- (a) Davidson Springs Master Plan Review & Comment
- (b) DPO Section 17 Text Amendments Hearing & Recommendation

VIII. OTHER ITEMS

- (a) Rural Area Plan Update

IX. B.O.C. LIAISON SELECTION

X. ADJOURNMENT



Agenda Title: April 30, 2018 Minutes

Summary: The Planning Board will review and vote to approve the April 30, 2018 meeting minutes.

ATTACHMENTS:

Description	Upload Date	Type
□ April 30, 2018 Minutes	5/11/2018	Cover Memo

MEETING MINUTES

Planning Board
Town of Davidson, NC
April 30, 2018

A meeting of the Davidson Planning Board was held at 7:00 p.m. in the Davidson Town Hall Board Room.

I. CALL TO ORDER: 7:02 pm

II. SILENT ROLL CALL AND DETERMINATION OF QUORUM

- **Present Board Members:** Kelly Ross; Susan Cooke; Mickey Pettus (Chair); Mike Minett; Matt Dellinger; Michael Flake; Bob Miller; Lindsey Williams; Shawn Copeland.
- **Absent Board Members:** Ellen Donaldson; John Swope
- **Town Representatives:** Travis Johnson, Trey Akers, Lindsay Laird

III. CHANGES TO THE AGENDA: None

IV. REVIEW/APPROVAL OF THE MINUTES

a. Approval of Minutes from 3/26/18

- Motion to Approve: Susan Cooke
- Second: Michael Flake
- Vote: 9-0 (Minutes Approved; Donaldson/Swope Absent)

V. OLD BUSINESS:

- a. **Mobility Plan Committee Update:** Travis Johnson provided an update on the Mobility Plan, announcing a series of upcoming talks and noting that the location for some of the events would be at Davidson United Methodist Church. He indicated that the charrette dates had been set for May 22-24 at Town Hall. Additionally, he described specific engagement opportunities to take place on Town Day and at Davidson College. Mickey Pettus noted that – when it was available this summer after the charrette – it was important to publicize the draft plan so that the public could review it online.
- b. **Planning Board Ordinance Committee Update:** Staff members Trey Akers and Lindsay Laird, along with Planning Board member Shawn Copeland, led a discussion of the proposed changes to the watershed ordinance as well as the committee's open house, which occurred immediately prior to the Planning Board meeting. To summarize:
 - Staff provided an overview of the issues that had been reviewed since the previous Planning Board meeting, noting that the number of issues continued to decrease. Specifically, Lindsay Laird described the language added to the ordinance that would prioritize certain projects in the Built-Up Area Averaging (BUAA) process. Trey Akers described the BUAA process, noting that only after approval of a development plan through the town's prescribed review process would a project be eligible to be considered for BUAA – and even then the Board of Adjustment could deny the proposal.

- Shawn Copeland provided a recap of the Planning Board Ordinance Committee’s open house, which occurred earlier that evening. He noted that questions regarding the BUAA process consumed a lot of the discussion. Additionally, he identified attendees’ desire to understand why the proposed amendments were allowing expansion to single-family residential structures if the purpose of the ordinance is to provide clean drinking water by limiting Built-Upon Area (BUA). He observed that the overall tone of the conversation was civil.
- Mickey Pettus pointed out that the variance process was available for those that need additional BUA beyond what the proposed amendments would allow. Trey Akers noted that this was true but emphasized that the variance process did not necessarily mean the request would be approved.
- The discussion closed with staff commending Ellen Donaldson and Shaw Copeland’s work to draft the Frequently Asked Questions topics, along with their efforts to review/critique/revise the proposed amendments.

VI. NEW BUSINESS:

a. Davidson Springs Master Plan FYI Presentation:

- Senior Planner Chad Hall provided an overview of the proposed master plan, orienting board members to the site and describing the housing mix and street connections as well as tree planting requirements and park components. He described citizen comments heard at the recent Public Input Session, noting concerns over traffic and the “blockiness” of the proposed townhomes’ architecture.
- Hall also reviewed the options being contemplated for homes along Walnut St. and whether these buildings would ultimately face Walnut St. or the pedestrian way to the west, internal to the site. Members asked whether the homes were allowed to face away from the street; Hall pointed out that since they would front a pedestrian way they could, but he said that staff favored the Walnut St. fronting option.
- Members also asked whether a Transportation Impact Analysis would be required (no, but payment-in-lieu for traffic calming measures is required); and, how the pedestrian easement currently abutting existing homes would be treated (it is being relocated to a more sensible area of the site).
- Chad Hall closed by describing where the proposal was in the review process; Mickey Pettus noted that the board would have the chance to review and comment on the proposal at the May 21st meeting.

VII. OTHER ITEMS: N/A

VIII. SELECTION OF BOARD OF COMMISSIONERS LIAISON: N/A

IX. ADJOURNMENT: 7:34 pm

- Motion to Adjourn: Mike Minett
Second: Shawn Copeland

APPROVAL OF MEETING MINUTES

Signature/Date
Mickey Pettus
Planning Board Chair



Agenda Title: Mobility Plan Update

Summary: Mobility Plan Project Manager Travis Johnson will provide an update on the Mobility Plan, including public engagement events.



Agenda Title: Davidson Springs Master Plan Review & Comment

Summary: The Planning Board will formally review and offer comments on the proposed Davidson Springs Master Plan.

ATTACHMENTS:

Description	Upload Date	Type
□ Davidson Springs Staff Analysis	5/17/2018	Cover Memo
□ Davidson Springs Master Plan	5/17/2018	Cover Memo
□ Davidson Springs Townhome Options	5/17/2018	Cover Memo
□ Davidson Springs Presentation	5/17/2018	Cover Memo



STAFF ANALYSIS

Date: May 17, 2018
To: Planning Board (May 21, 2018)
From: Chad Hall, Senior Planner
Re: Davidson Springs, Phases 3 and 4, Master Plan

1. INTRODUCTION

APPLICANT INFO

- **Owners:** John Marshall Custom Homes, Inc.
- **Developer:** Rodney Graham (John Marshall Homes)
- **Consultant:** Tim Derylak (Dewberry Engineering)
- **Location:** West of Walnut Street and south of James Alexander Way
(not including Lassiter property)
(Parcel ID: 00705121, 00705122, 00705123)
- **Planning Area(s):** Village Infill (Green Overlay)
- **Area:** 4.56 acres

REQUEST

The applicant proposes a Master Plan for development of Phases Three and Four of Davidson Springs. Properties included are located west of Walnut Street and south of James Alexander Way on 4.56 acres. The overall master plan illustrates eight single-family detached home lots and eight townhome units. Phase Three is a singular lot, fronting Walnut Street and north of the Lassiter property. Phase Four includes seven single-family detached home lots and eight townhome units.

The development will front Walnut Street and the proposed James Alexander Way extension. Included with the Master Plan is the provision of a greenway through the site (Kincaid Trail extension), common open space with a greenway connector and adequate tree save areas.

The Master Plan features two options for Walnut Street, which are discussed further in the Summary of Petition below.

UPDATE (5/17/18)

The applicant has met with staff to discuss the frontage along Walnut Street. It has been discovered that additional public ROW exists southward along Walnut Street, though for a small portion of Walnut, there is not a recorded dedication and it has not been maintained by the Town. The applicant's attorney and Davidson's Town Attorney are meeting to resolve the final portion. As such, no changes to the Master Plan have been performed at the time of this update.

SUMMARY OF PETITION

The applicant proposes a master plan for Davidson Springs, Phases Three and Four. Process B of the master plan process includes a Public Input Session (held April 9, 2018) followed by Planning Board review and comment. Planning staff will conduct a technical review concurrently with Mecklenburg County.

The proposed Master Plan for Davidson Springs, Phases Three and Four illustrate 16 total lots. Phase 3 is a singular lot, fronting Walnut Street and north of the Lassiter property; the parcel is 0.27 acre in size and has approximately 100' of frontage on Walnut Street. Phase 4 includes seven single-family detached home lots and eight townhome units.

The townhomes fronting Walnut Street are proposed with two options:

- Front a Pedestrian Way along Walnut Street (Option A)
- Front Walnut Street extension (Option B)

For Walnut Street, there is an existing easement where several property owners will need to agree to the terms of the change of easement. The two options are a means to allow for development of the townhomes with different frontage conditions. Though listed as Options A and B, the applicant has not expressed a preference. Option A will front a pedestrian way, currently labeled at seventeen feet in width; this area may need more embellishment with hardscape and landscape in order to meet the spirit of the ordinance definition of a pedestrian way. Option B fronts Walnut Street, extended, with a typical planting strip and sidewalk.

The townhomes are alley-loaded and are 26'-wide units; these units will be housed into two, four-unit townhome buildings. Each unit will have a detached garage, as currently proposed.

Single-family lot frontages range from approximately sixty feet wide (Lots 2 and 3) to a lot larger than 100 feet (Lot 8), with a majority of lots approximate 70' in width (Lots 4-7).

The master plan provides a density of 3.51 units per acre with an overall open space of +/- 0.81 acres (17.8 percent) on the 4.56 acre site. The open space is quantified as 17.8 percent, over the 10 percent common open space requirement for the Village Infill Planning Area. The Park/Public Open Space requirement of 0.36 acre has been met, including greenway connector.

There is a Tree Save requirement to preserve twenty (20) percent of existing mature trees on the site. Tree save is indicated at 25% of existing mature tree canopy (44 of 173 trees). The overall 4.56 acre parcel requires 57 large maturing trees, of which new plantings may contribute. To satisfy the difference of 13 large maturing trees, 14 large maturing trees are being added in the park area (eight) and along the streetscape in front of the townhomes (six). Additionally, twenty-five small maturing trees will be added to the streetscape of James Alexander Way (extension) in addition to the individual tree requirements per each single-family lot.

A greenway/multiuse path is illustrated traversing the site along its western boundary. This route essentially follows an existing sewer line easement. This portion is part of the Randall Kincaid Greenway Extension (South St to Spring St) and a segment of the Mooresville-Charlotte Trail. This greenway section is a High/Near-term priority per the Walks and Rolls Plan.

A Transportation Impact Analysis (TIA) is not required for sixteen units, but the applicant will be making a contribution into the Connectivity and Traffic Calming Plan at a rate of \$500 per lot, per the Davidson

Planning Ordinance. Attendees of the PIS suggested using those monies to improve the sidewalk system in the area or to install speed reduction devices to slow traffic.

A total of two affordable units are required based upon 16 total units. Payment-in-lieu is an option to providing the required units; the developer has indicated they plan to make payment-in-lieu.

The applicant has met the documentation and public notice requirements as set forth in the Davidson Planning Ordinance (DPO).

2. PLANNING STAFF PRELIMINARY REVIEW

BACKGROUND

The applicant's design team met with planning staff several times prior to submitting the Master Plan application for Davidson Springs, Phases Three and Four.

The property is within the Village Infill Planning Area (Green Overlay). The required open space for developments in this planning area is 10 percent.

This proposal was deemed to be a complete application on November 22, 2017. This review considers compliance with the DPO adopted May 1, 2015, as amended.

A Public Input Session was held on April 9, 2018. Approximately 40 people were in attendance. A vast majority of comments at the PIS regarded concerns over transportation, particularly concern over the extension of James Alexander Way. Additional transportation comments were related to the greenway construction, with many wondering when the greenway portion from Parks/Rec to NC115 – which crosses this site – would be complete.

Other primary comments/questions from the PIS ranged from the provision of affordable housing to making sure stormwater is controlled, particular as it may impact Vernon and the greenway.

PLANNING and DEVELOPMENT STANDARDS

Below is a summary of the staff analysis. A more detailed technical review, conducted concurrently with Mecklenburg County, will follow.

LAND USE

The proposed master plan for Davidson Springs, Phases 3 and 4 illustrates 16 total units, with 8 detached homes on varying lot sizes. There are also eight townhome lots located at the corner of Walnut Street with Vernon Drive. Detached house and townhouse are permitted building types in the Village Infill Planning Area. A greenway and required open space has been provided, including acceptable tree save areas.

At the Public Input Session (PIS), three alternatives for the townhomes were presented with two options fronting Walnut Street and one fronting the greenway. Staff and a majority of participants voiced a preference for fronting Walnut Street.

ACCESS and TRANSPORTATION, including GREENWAYS, MULTI-USE PATHS and SIDEWALKS

The homes will have frontage on Walnut Street and James Alexander Way (extended). Sidewalks will continue on James Alexander Way as will sidewalks along Walnut Street. Additionally, a portion of the Randall Kincaid Greenway Extension (from South St to Spring St) shall be constructed as part of this development project. A Transportation Impact Analysis (TIA) is not required; the applicant will be

making a contribution into the Connectivity and Traffic Calming Plan at a rate of \$500 per lot, per the Davidson Planning Ordinance.

OPEN SPACE and PARKS

The Village Infill Planning Area requires 10 percent open space, with 5 percent being park/public space. The proposed site plan indicates 17.8 percent open space as being preserved, including functional and riparian spaces. A small park area is being created off of James Alexander Way, near the proposed mail kiosk and greenway connector.

TREE PRESERVATION, LANDSCAPING and SCREENING

There is a Tree Save requirement to preserve twenty (20) percent of existing mature trees on the site. Tree save is indicated at 25 percent of existing mature tree canopy (44 of 173 trees). Street trees will need to be provided per the ordinance. Additionally, the landscaping installed to each building lot will be vital for creating tree canopy in the future. Each lot in the Village Infill Planning Area should have approximately 20-40 percent tree canopy at maturity.

AFFORDABLE HOUSING

A total of two (2) affordable units are required based upon 16 total units. The affordable units have not been identified on the master plan. Payment-in-lieu is an option to providing the required units. The developer has indicated they plan to make payment-in-lieu.

3. PLANS AND POLICIES

Below is a list of town-adopted plans and policies summarizing each document's applicability to the proposed Master Plan:

- The ***Davidson Comprehensive Plan (2010)*** contains several recommendations and initiatives relevant to this proposal. The Targeted Growth Plan Livability Themes state:
 - A. SUPPORT SAFE AND VIBRANT PUBLIC SPACES AND NEIGHBORHOODS. GOAL 3: Provide Safe and Secure Neighborhoods, Streets, Parks and Greenways. Initiatives include:
 - Build off-road greenways, trails, and bike improvement projects per the bicycle master plan.
 - Development should be walkable with vibrant public spaces.
 - Growth should support and enhance existing neighborhoods.
 - B. MAINTAIN QUALITY DESIGN AND SOUND PLANNING PRINCIPLES. GOAL 1: Prioritize Infill and Mixed-Use Development Within or Near Already Developed Areas, stating:
 - Continue to allow for limited single-family infill development and redevelopment in the Village Infill Planning Area.
 - Growth should create high-quality pedestrian environments.

As identified above, the comprehensive plan supports development that is walkable and safe. The plan also supports the dissemination of all transportation modes through multiple route options.

- The ***Davidson Planning Ordinance (2015)*** contains several references that speak directly to this proposal, including:

Principles

- We must preserve Davidson's character and sense of community: Enhanced by developments with open space and a street, sidewalk and greenway network that knits the community together (General Principles Item 1);

- We must encourage alternative means of active transportation: The built environment can enhance the use of alternatives to the car and increase our physical health (General Principles Item 3).

Village Infill (Green Overlay) Planning Area, Description

- The Village Infill Planning Area comprises Davidson's traditional, residential neighborhoods and provides for infill development surrounding the historic town center. Streets, sidewalks and greenways in the Village Infill Planning Area must be interconnected. A range of housing types is encouraged. Buildings are restricted in size to promote a local orientation, to be pedestrian-oriented, to be compatible with the scale of surrounding residences, and to limit any adverse impacts on residential development. (2.2.4.A).

- The ***Davidson Walks and Rolls Active Transportation Master Plan (2013)*** contains several references that speak directly to this proposal, including the continuation of a key corridor greenway path along the western edge of the property.

These references underscore the DPO's emphasis on interconnected policies and land use patterns that support the diversity of residential areas with the provision of community amenities, such as greenways.

4. STAFF FINDINGS

The proposed Master Plan illustrates building types and permitted uses consistent with existing plans and policies. The plan indicates 16 total units, eight which are detached single-family and eight townhomes.

The primary frontage of the site is along Walnut Street. There is also access to the site via an extension of James Alexander Way.

Open space is provided above the required 10 percent for the Village Infill Planning Area. This includes a neighborhood park internal to the site and additional land preserved along the western boundary. The site plan also illustrates a greenway along the western boundary along an existing sewer easement.

There is a Tree Save requirement to preserve twenty (20) percent of existing mature trees on the site. Tree save is indicated at 25 percent of existing mature tree canopy (44 of 173 trees).

With a total of sixteen lots/units, there is an affordable housing requirement of two units. The developer has indicated that they will provide a payment-in-lieu, as permitted by the DPO.

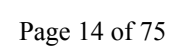
A Transportation Impact Analysis (TIA) is not required; the applicant will be making a contribution into the Connectivity and Traffic Calming Plan at a rate of \$500 per lot, per the Davidson Planning Ordinance.

In conclusion, the proposed master plan for Davidson Springs, Phases 3 and 4 is for 16 total homes with a mixture of single-family homes and townhomes, consistent with the Comprehensive Plan and DPO. Staff supports the general intent of the master plan, understanding that detailed ordinance requirements will be addressed during the technical review.

5. RESOURCES & ATTACHMENTS

- Resources: Links to referenced policy documents.
 - Davidson Planning Ordinance (2015): <http://www.ci.davidson.nc.us/DocumentCenter/View/8499>

- Comprehensive Plan (2010): <http://www.townofdavidson.org/340/Davidson-Comprehensive-Plan>
- Maps:
 - 20180207_Walnut_Street_Master_Plan_2nd_Submittal (Proposed Davidson Springs Phases 3 and 4 Master Plan with environmental inventory, street sections, notes, etc.)
 - 20180409_Davidson Springs Site Improvements (Proposed features of the Master Plan)
 - 20180409_Davidson Springs Townhome Lots Options REV 04-09-2018 (Townhome frontage options)



E

D

C

B

A

SETBACK NOTES:

- ALL FRONT YARD SETBACKS BASED ON ADJACENT HOMES WITHIN 500' PER TOWN OF DAVIDSON VIP ZONING REQUIREMENTS.
- ALL LOTS FOR SINGLE FAMILY HOMES TO HAVE MINIMUM 20' REAR YARD SETBACK.
- ALL LOTS FOR SINGLE FAMILY HOMES TO HAVE MINIMUM 5' SIDE YARD SETBACK AND MINIMUM SIDE YARD SETBACKS TO TOTAL 30% OF LOT WIDTH.

OPEN SPACE:

TOTAL EXISTING SITE AREA:	4.56 ACRES
PROPOSED COMMON OPEN SPACE:	0.81 ACRES
REQUIRED COMMON OPEN SPACE:	10.0%
REQUIRED UNDISTURBED OPEN SPACE:	17.5%
PROPOSED COMMON OPEN SPACE:	17.8%

LOT SCHEDULE:

WIDTH(FT)	QTY	COMMENT
50-60	2	SINGLE FAMILY HOMES, LOTS 2-3
60-70	4	SINGLE FAMILY HOMES, LOTS 4-7
90-100	1	SINGLE FAMILY HOMES, LOT 1
>100	1	SINGLE FAMILY HOMES, LOT 8
TH	8	TOWNHOMES, LOTS 9-16

PHASING:

PHASE III : LOT 1
PHASE IV: LOTS 2-16

LEGEND

- SMALL MATURING TREE
- LARGE MATURING TREE
- PROPOSED EASEMENT AREA
- PROPOSED COMMON OPEN SPACE AREA
- STREAM BUFFER
- TREE SAVE AREA

STORMWATER MANAGEMENT NOTES:

- ONSITE STORMWATER MANAGEMENT WILL BE DESIGNED TO MEET THE REQUIREMENTS AS SET FORTH IN TOWN OF DAVIDSON POST-CONSTRUCTION STORM WATER ORDINANCE.
- THE FINAL STORM ROUTING WILL BE BASED UPON THE FINAL LOCATION OF ON-SITE FEATURES.
- BMP'S WERE PRELIMINARILY SIZED TO CONTAIN THE DIFFERENCE IN VOLUME BETWEEN THE PREDEVELOPMENT AND POST DEVELOPMENT 50 YEAR STORMS AND THE WATER QUALITY VOLUME. THE BMP WAS ALSO SIZED TO HOLD AN APPROXIMATED VOLUME FOR WATER QUALITY VOLUME, CHANNEL PROTECTION VOLUME, AND PERMANENT POOL VOLUME. THE APPROX. REQUIRED STORAGE VOLUME IS 53,000 CF (50 YR POST DEVELOPMENT VOLUME) - 39,400 CF (PRE-DEVELOPMENT VOLUME) = 13,600 CF

DRAINAGE AREA CALCULATIONS

TOTAL DRAINAGE AREA: TO BMP: 3.39 AC	
PRE-DEVELOPMENT:	POST-DEVELOPMENT:
DRAINAGE AREA: 3.39 AC	DRAINAGE AREA: 3.39 AC
CN: 69	CN: 80
TC: 11 MIN.	TC: 5 MIN.
Q50: 13 CFS	Q50: 22 CFS
VOLUME: 39,400 CF	VOLUME: 53,000 CF
APPROX. STORAGE = 53,000 CF (POST) - 39,400 CF (PRE) = 13,600 CF	

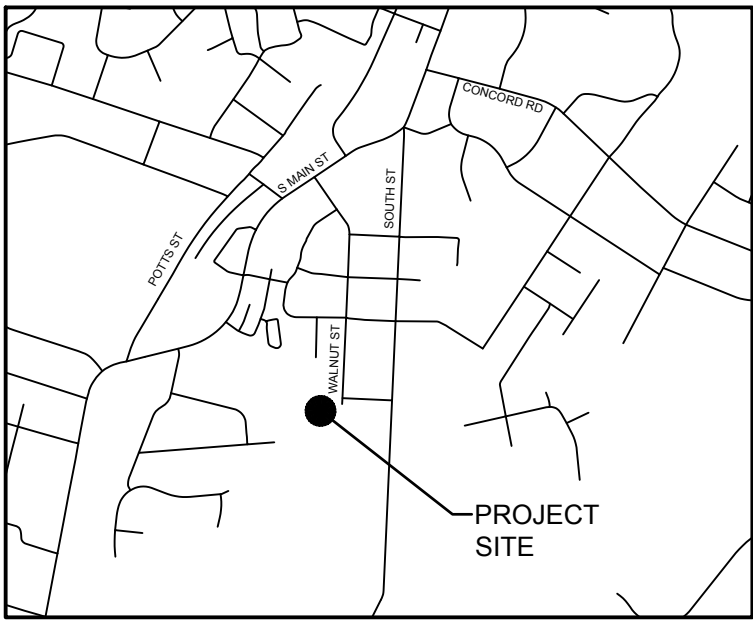
IMPERVIOUS AREA CALCULATIONS

PRE-DEVELOPMENT:	POST-DEVELOPMENT:
PERVIOUS: 4.53 AC (99.4%)	PERVIOUS: 3.07 AC (67.3%)
IMPERVIOUS: 0.03 AC (0.6%)	IMPERVIOUS: 1.49 AC (32.7%)
TOTAL: 4.56 AC	TOTAL: 4.56 AC

SITE PLAN DATA TABLE

PROJECT NAME:
PARCEL NUMBERS:
TOTAL ACREAGE:
TOTAL SQUARE FEET:
PRINCIPAL USES:
EXISTING ZONING DISTRICT:
PERCENTAGE OF BUA ALLOWED:
PERCENTAGE OF BUA ESTIMATED:
TIME FRAME:
STREAM WATERSHED:
REGULATED DRINKING WATERSHEDS:

DAVIDSON SPRINGS PHASE III & IV
007-05-121, 007-05-122, 007-05-123
4.56 AC
198,634 SF
SINGLE FAMILY RESIDENTIAL
VILLAGE INFILL
N/A
32.7%
2018
ROCKY RIVER
LAKE NORMAN



VICINITY MAP
NOT TO SCALE

TRANSPORTATION IMPACT ANALYSIS

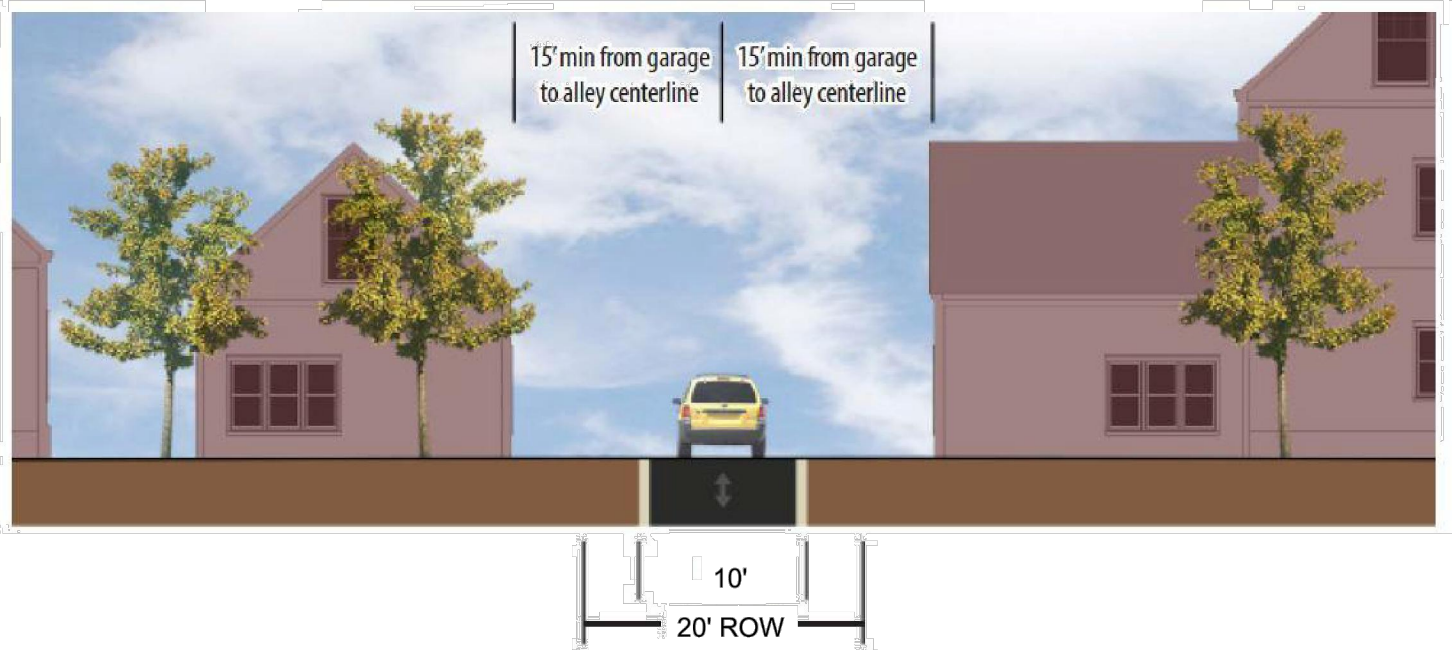
TIA FEE = \$500 X 16 = \$8,000

AFFORDABLE HOUSING

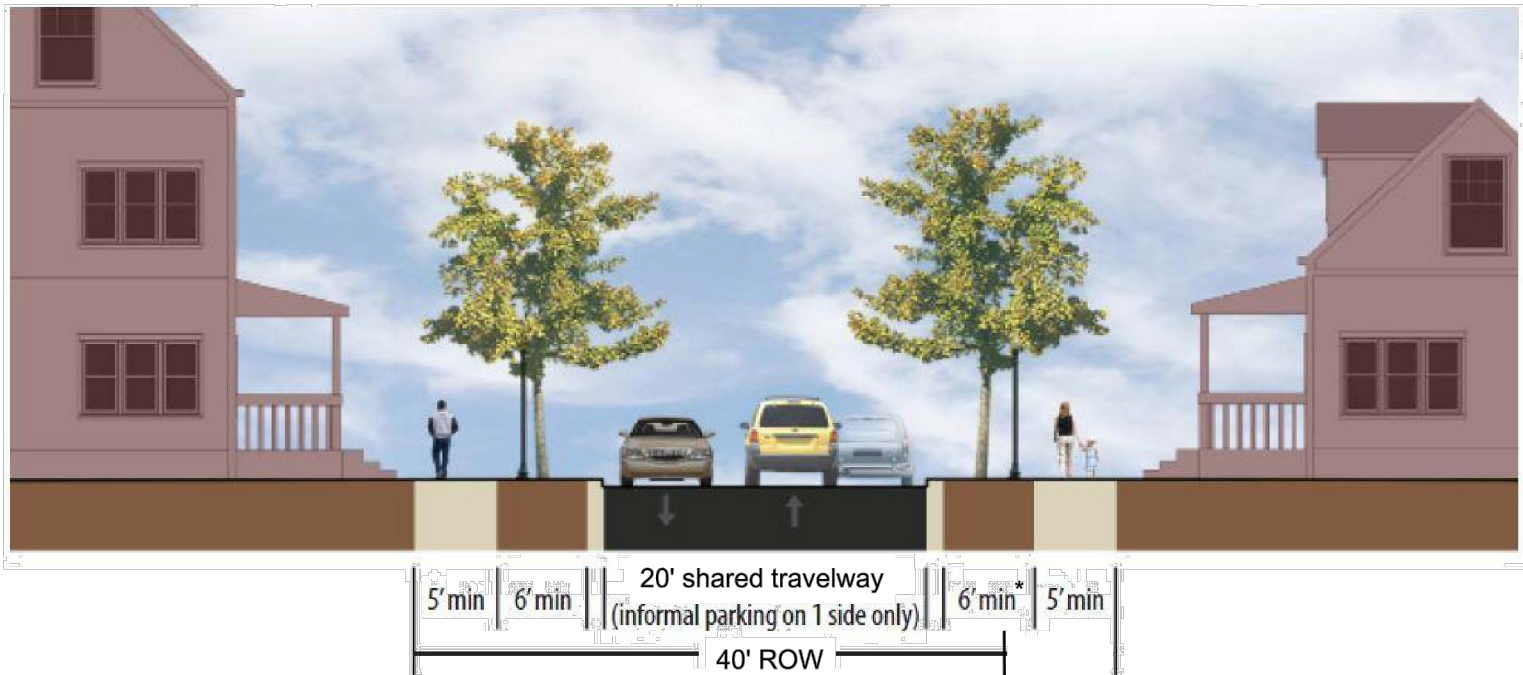
OWNER SHALL MAKE PAYMENT IN LIEU OF AFFORDABLE HOUSING MITIGATION PER TOWN OF DAVIDSON ORDINANCE PRIOR TO ANY FINAL PLAT APPROVAL.

FIRE NOTES

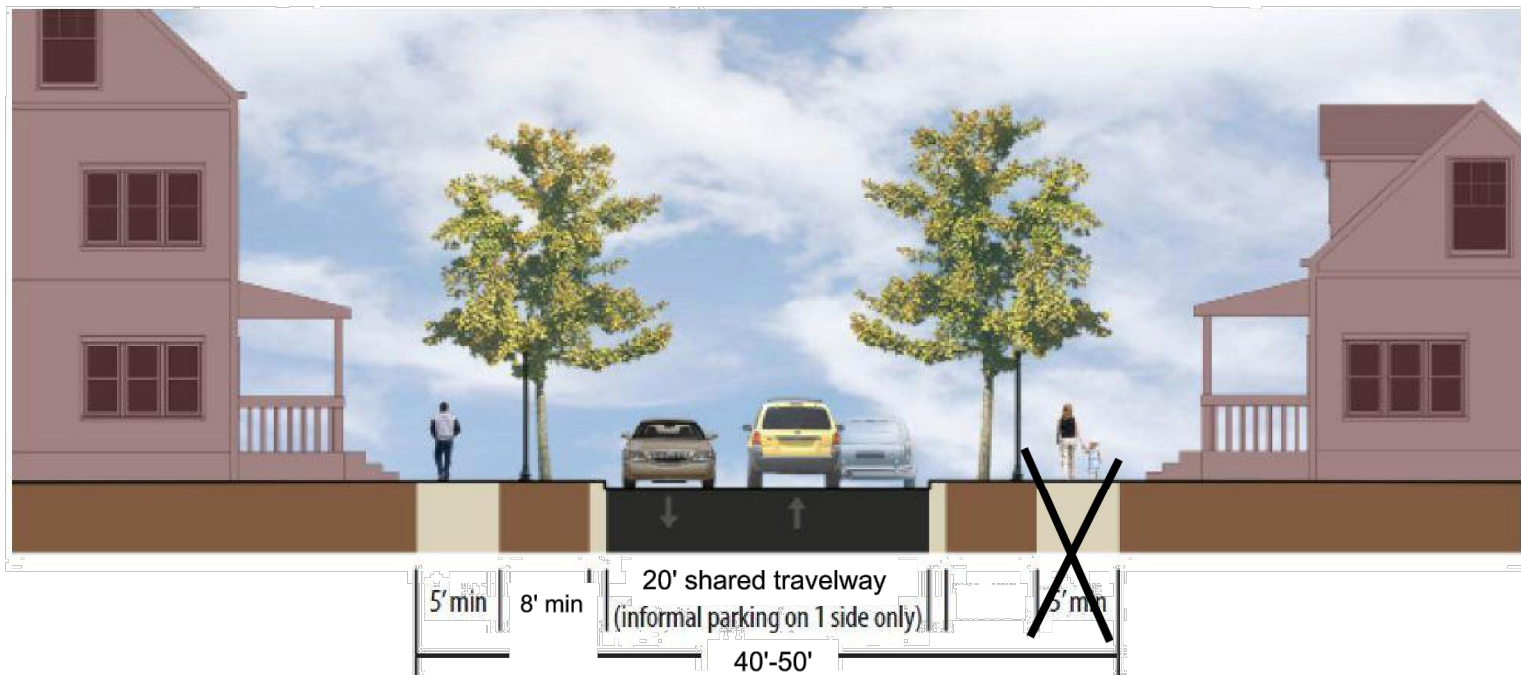
FIRE APPARATUS ACCESS ROADS SHALL BE DESIGNED AND MAINTAINED TO SUPPORT THE IMPOSED LOADS OF FIRE APPARATUS OF 80,000 POUNDS.



PRIVATE ALLEY TYPICAL STREET CROSS SECTION



JAMES ALEXANDER WAY AND MIMOSA STREET
TYPICAL STREET CROSS SECTION

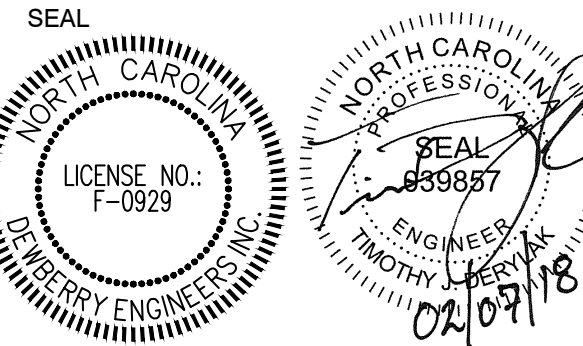


WALNUT STREET TYPICAL STREET CROSS SECTION



Dewberry Engineers Inc.
9300 Harris Corner Parkway
Suite 220
Charlotte, NC 28269
Phone: 704.509.9918
Fax: 704.509.9937
NCBELS #F-0929

DAVIDSON SPRINGS
PHASE III & IV
DAVIDSON, NORTH CAROLINA



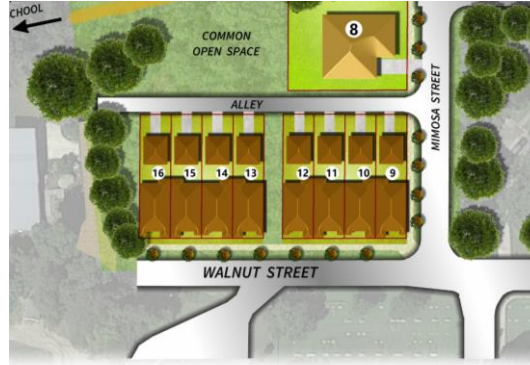
KEY PLAN

NO.	DATE	BY	DESCRIPTION

REVISIONS	
DRAWN BY	BML
APPROVED BY	TJD
CHECKED BY	TJD
DATE	FEBRUARY 7, 2018

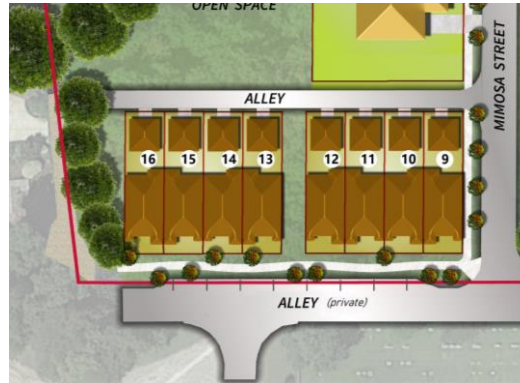
TITLE
MASTER PLAN
GENERAL NOTES

PROJECT NO. 50098744

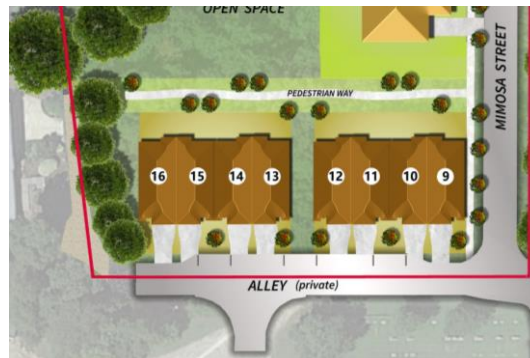


OPTIONS FOR TOWNHOME LOTS

In this option we improve the extension of Walnut Street and the Town accepts it as public right of way. The extension and associated parking may be used by the public. We also improve the Town side of Walnut Street.

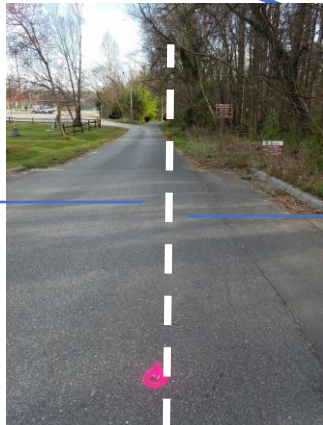


In this option we improve the extension of Walnut Street but it is a private road. Parking is signed to be private. We do not improve the Town side of Walnut Street.



This option is similar to the above, except that the extension of Walnut Street is used as an alley and the townhomes front a pedestrian way facing the common open space. This option improves the view of those using the greenway.

Town of
Davidson



John
Marshall
Custom
Homes



The Town *of* Davidson

College Town. Lake Town. *Your Town.*

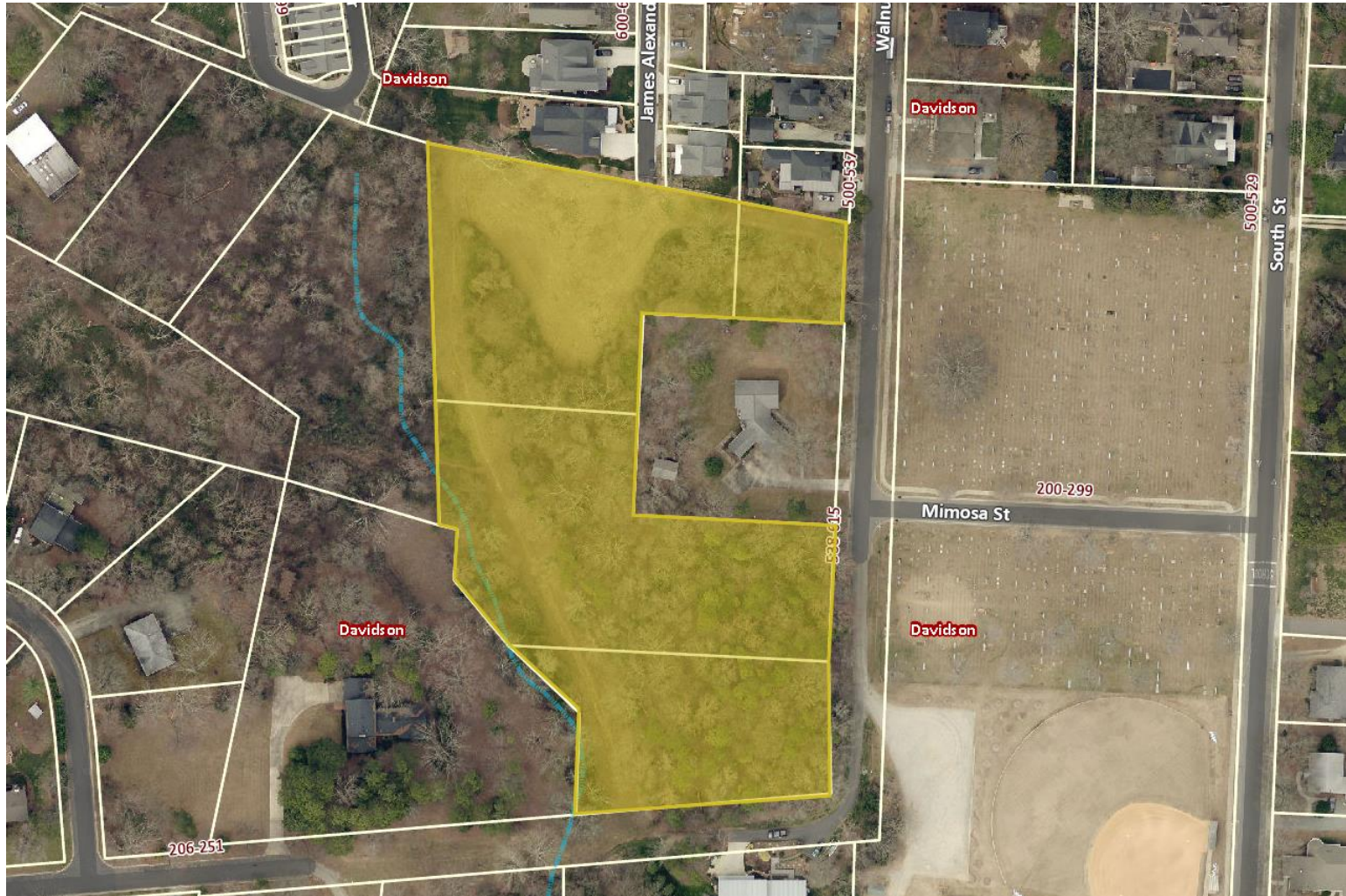
Planning Board

April 30, 2018

DAVIDSON SPRINGS, PHASE 3 AND 4



DAVIDSON SPRINGS, PHASE 3 AND 4



DAVIDSON SPRINGS, PHASE 3 AND 4

Master Plan:

Phase 3: One (1) single-family detached home at 522 Walnut Street

Phase 4: Seven (7) single-family detached homes along James Alexander Way

- Two (2) at 50-60 foot-wide lots
- Four (4) at 60-70 foot-wide lots
- One (1) 90-100 foot-wide lot
- One (1) 100+ foot-wide lot

Eight (8) townhomes in two, four-unit buildings along Walnut Street

- 26 foot-wide units

Site Acreage: 4.56

Required Open Space: 0.456 acre (10% with 5% minimum as Park/Public Space)

Provided Open Space: 0.81 acre (17.8%)

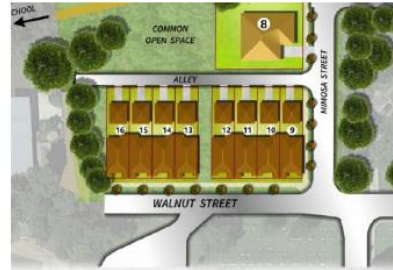
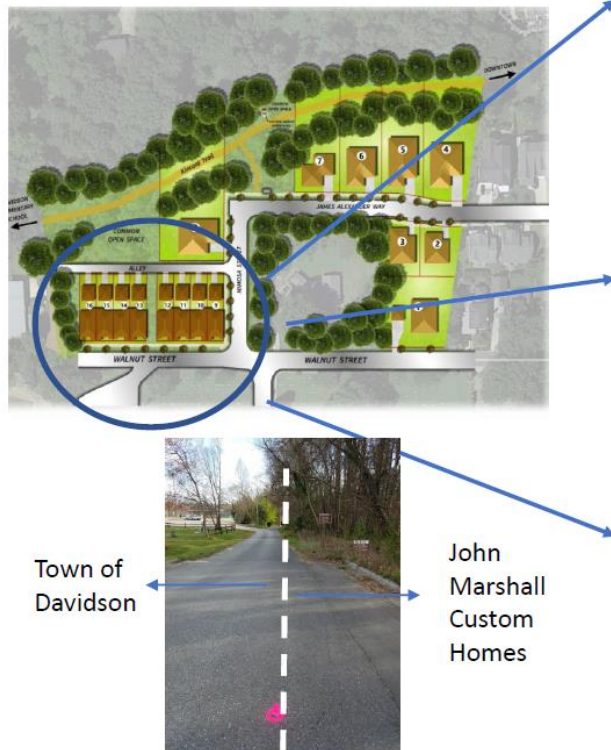
Density: 3.5 DUA



DAVIDSON SPRINGS, PHASE 3 AND 4



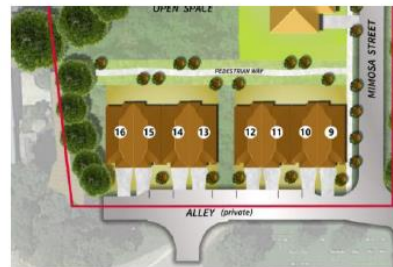
DAVIDSON SPRINGS, PHASE 3 AND 4



In this option we improve the extension of Walnut Street and the Town accepts it as public right of way. The extension and associated parking may be used by the public. We also improve the Town side of Walnut Street.

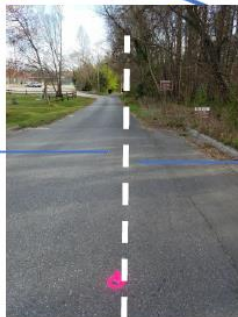


In this option we improve the extension of Walnut Street but it is a private road. Parking is signed to be private. We do not improve the Town side of Walnut Street.



This option is similar to the above, except that the extension of Walnut Street is used as an alley and the townhomes front a pedestrian way facing the common open space. This option improves the view of those using the greenway.

Town of Davidson



John Marshall Custom Homes



College Town. Lake Town. *Your Town.*

DAVIDSON SPRINGS, PHASE 3 AND 4



Tree Coverage and Open Space

Item	Town Requirement	This Proposal
Total Canopy	57 large maturing trees	<ol style="list-style-type: none"> 1. 58 large maturing trees 2. 4 small maturing trees 3. 30 street trees (mix of large and small)
Mature Tree Save	20%	25%
Open Space	10%	18%
Park Space	5% (included in open space above)	5%, plus we are constructing the greenway
Minimum Tree Caliper at Planting	2 inches	3 inches

DAVIDSON SPRINGS, PHASE 3 AND 4



DAVIDSON SPRINGS, PHASE 3 AND 4

Master Plan:

Phase 3: One (1) single-family detached home at 522 Walnut Street

Phase 4: Seven (7) single-family detached homes along James Alexander Way

Eight (8) townhomes in two, four-unit buildings along Walnut Street

Site Acreage: 4.56

Required Open Space: 0.456 acre (10% with 5% minimum as Park/Public Space)

Provided Open Space: 0.81 acre (17.8%)

Affordable Housing: $2 \times \$26,550 = \$53,100$ (Payment-in-lieu)

Connectivity and Traffic Calming Plan: $16 \times \$500 = \$8,000$





Agenda Title: DPO Section 17 Text Amendments Hearing & Recommendation

Summary: The Planning Board will review the proposed text amendments, hold a public hearing, and make a recommendation. Required Actions: The board will vote on a recommendation and consistency statement.

ATTACHMENTS:

Description	Upload Date	Type
❑ DPO 17 Watershed Amendments - Memo	5/17/2018	Cover Memo
❑ DPO 17 Watershed Amendments - Staff Analysis	5/17/2018	Cover Memo
❑ DPO 17 Watershed Amendments - Annotated Ordinance	5/17/2018	Cover Memo
❑ DPO 17 Watershed Amendments - Presentation	5/17/2018	Cover Memo



MEMO: WATERSHED ORDINANCE TEXT AMENDMENTS

Date: May 21, 2018
To: Panning Board of Commissioners
From: Planning Board Ordinance Committee
Re: DPO Section 17 (Watershed Ordinance) - Text Amendments

The following sections highlight the proposed text amendments history, alignment with town aims, public engagement, pros/cons, and anticipated schedule/potential action.

1. OVERVIEW

BACKGROUND

- **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.

ATTACHMENTS

- **Staff Analysis:** Provides an overview and brief discussion of the proposed changes.
- **Frequently Asked Questions:** A summary of questions and topics discussed.
- **Supporting Graphics:** Illustrate existing conditions, outcomes of proposed standards, and alternative site designs for lots subject to the standards.
- **Annotated Watershed Ordinance:** A draft ordinance highlighting/explaining proposed changes.

2. UPDATES SINCE 4/30/18

The Planning Board Ordinance Committee has been working on a revised set of standards since the 4/30/18 Planning Board meeting. The proposed revisions are summarized below:

17.6.1 EXPANSIONS TO EXISTING DEVELOPMENT

- **Phased Transition, Single-Family Expansions:** Lots where a pre-1993 single-family residence is the principal use shall not be required to meet the built-upon area expansion requirements until January 1, 2025; however, these expansions must meet the applicable buffer and enhanced stormwater requirements – as will all other lot types exceeding 24% built-upon area.

17.6.2 EXPANSIONS TO EXISTING DEVELOPMENT

- **Phased Transition, Pre-1993 Single-Family Lots:** Until January 1, 2025 a lot of record may be developed or used for single-family residential purposes subject to applicable buffer requirements, the enhanced stormwater strategies described in 17.6.1, and a maximum built-upon area of 34 percent. This allocates these properties an additional 10% built-upon area – the equivalent of a minor variance. The transition period allows landowners time to plan and make decisions about their property without the immediacy of a sunset date closing in soon.

3. RELATED TOWN GOALS

STRATEGIC PLAN ALIGNMENT

- **Land Use Strategy:** The proposed standards will help align land use policies to manage residential growth, reduce the scale of future development, and enhance downtown.
- **Community Engagement Strategy:** Since January 2018 the amendments have been discussed monthly/bi-monthly at Planning Board and Board of Commissioners meetings, with the Planning Board Ordinance Committee hosting additional meetings – including an open house – to meet with citizens directly. Multiple digital and print notifications have also been provided.
- **Historic Preservation Strategy:** The standards allow for the preservation of existing homes through expansion incentives, which are balanced with rainwater management strategies.
- **Affordable Housing Strategy:** The standards allow for projects meeting an identified housing need (i.e. less than 120% Area Median Income) to pursue special approval for additional land coverage, if needed. All rainwater management requirements must still be met. Additionally, the standards allow an array of rainwater management tools rather than a one-size-fits-all approach, which has complicated recent affordable housing efforts.
- **Economic Development Strategy:** The standards afford flexibility in areas prioritized by the Comprehensive Plan for investment (discussed in the Comprehensive Plan sub-section below).
- **Partnerships:** The formation of the Planning Board Ordinance Committee (PBOC) has been critical to these amendment's development. This sub-set of citizen volunteers from the Planning Board has worked closely with staff in reviewing, drafting, and revising the standards as well as facilitating conversations with citizens. Additionally, staff repeatedly engaged Mecklenburg County and the NC Dept. of Environmental Quality to provide insight into and feedback concerning the standards.

CORE VALUES

- **Open Communication:** The PBOC has played an instrumental role in reviewing/revising standards and engaging citizens. In fact, most changes made since January 2018 are a result of citizen feedback. Feedback has been solicited through consistent, direct engagement with the Board of Commissioners, Planning Board, county/state agencies, and citizens. A variety of means, meeting formats, and engagement strategies ranging from digital/print announcements, public meetings, meetings with citizens/landowners, and an open house have been used to engage landowners in the watershed.
- **Historic Mix of People:** The expansion provisions for single-family lots give long-standing owners a viable option to remain in their house and modify it if desired.
- **Traditional Character:** The standards indirectly reinforce the scale and character of existing streets and buildings throughout the watershed.
- **Economic Health:** The standards afford flexibility in areas cited by the Comprehensive Plan as important locations for new business opportunities – both downtown and elsewhere.
- **Healthy Environment:** The standards help to protect the Lake Norman watershed by limiting the amount of built-upon-area (BUA) on a site and maintaining buffers around the lake and streams. The proposed changes ensure these standards are applied consistently throughout the watershed.

- **Interjurisdictional Cooperation:** The proposed amendments are the result of collaboration amongst town, county, and state officials and are in accordance with federal laws intended to protect drinking water supplies (i.e. the Safe Drinking Water Act, as amended).

COMPREHENSIVE PLAN

- **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.
- **Maintain Quality Design/Sound Planning Goal 1 - Prioritize Infill/Mixed Use Development Within or Near Already Developed Areas:** This goal recommends facilitating reinvestment in the Village Center Planning Area (i.e. downtown). The proposed standards allow flexibility on the downtown block bounded by Main, Jackson, and Depot Streets and appropriately accommodate redevelopment on adjacent blocks (i.e. the Depot building and Sadler Square) by requiring engineered stormwater controls if these blocks redevelop beyond 24% BUA.

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.
- **Non-Residential Landowners/Businesses:** The proposed standards treat their expansion options consistently with other lots types and also remove barriers to investment in areas identified by the Comprehensive Plan.
- **Residential Landowners:** The proposed standards treat residential lots more consistently compared to the current standards, which exempt select lots based on their pre-1993 existence while holding newer lots or older lots that were subdivided to different standards. The standards also afford expansion options for long-standing owners that desire to remain in their house. Generally, the proposed standards give the expansion/preservation option greater viability compared to redevelopment (i.e. demolition) when compared to the current standards.
- **Administration/Government:** The proposed amendments increase administrative clarity, including application of standards and processes, compared to the current standards. This benefits landowners, too, who will have a better idea of steps needed to obtain approval.

4. OPTIONS/PROS & CONS

OPTIONS

The PBOC reviewed various options for several of the major amendments topics, two of which are summarized in the Staff Analysis (17.6.2 Existing Lots of Record/Exemptions; 17.8 Built-Up-on Area Averaging). In each case the PBOC was able to reach a consensus about the best way forward. Overall, the proposed amendments as listed in the draft ordinance reflect the PBOC's recommendations for the Watershed Ordinance revisions.

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).
- **Exemptions Removed:** Expansions & Demolitions Avoiding BUA Criteria
 - » The amendments address a long-standing disparity in the current standards that allows some older properties to exceed 24% BUA while holding new lots and older lots that have been subdivided to the 24% BUA limit. The standards propose holding all residential lots to 24%.
- **Measured Flexibility Downtown:** Village Center + Village Commerce
 - » The standards afford flexibility in areas prioritized by the Comprehensive Plan for investment.
- **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.
- **Maintains Landowner Stability/Existing Character:** Affirms/Clarifies Options of Long-standing Owners and Supports Existing Development's Character
 - » The proposed standards give the expansion/preservation option greater viability compared to redevelopment (i.e. demolition) when compared to the current standards.
 - » The proposed amendments indirectly reinforce the scale and character of existing streets throughout the watershed, which the current standards/exemptions do not.

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.
- **Additional Design:** Post-1993 Lots Require Focused Design
 - » The proposed amendments will treat lots more consistently. For currently unrestricted older residential lots, this means being held to the same standards as newer lots or older lots that subdivide (i.e. 24%). In these cases, thorough site design becomes especially important as site features included in conventional building (driveway, walkway, house, patio, etc.) may need to be carefully evaluated and designed to meet the buffer and BUA standards. The supporting illustrations of case studies show viable, realistic scenarios in which comparable levels of site and housing design can be achieved.

5. FYI/RECOMMENDED ACTION

- **Planning Board Hearing + Recommendation:** On May 8, 2018 the Board of Commissioners heard staff and public comments on the proposed amendments as well as direct the Planning Board to make a recommendation on the proposed amendments.

6. NEXT STEPS

- **May 8, 2018:** Board of Commissioners Public Hearing/Planning Board direct to make a recommendation within 30 days.

- **May 21, 2018:** The Planning Board will review the proposed amendments, accept public comment, and make a recommendation on the proposed changes.
- **June 5, 2018:** The Planning Board Ordinance Committee will provide an update to the Board of Commissioners.
- **June 12, 2018:** The Commissioners will hear/review the Planning Board's recommendation and may take action on the proposed amendments.



STAFF ANALYSIS: WATERSHED ORDINANCE TEXT AMENDMENTS

Date: May 21, 2018
To: Planning Board
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.
- **Equal Application of Standards:** The proposed amendments apply the standards more equally across all lot types, afford sufficient development rights for each lot type, and are guided by adopted plan and policy aims.
- **Scale/Character:** The proposed amendments reinforce the character of existing development.

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 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.
- **Include Single-Family Residential in Expansion Standards, Effective 2025:** Currently non-single family residential buildings are held to the expansion standards, while existing single-family residences are not. The proposed amendments will include single-family residential buildings in these standards beginning in 2025, which means expansions to these structures may extend 24% beyond the existing development footprint.
- **Enhanced Stormwater Practices for Expansions:** Expansions result in the preservation of existing buildings, a supported policy aim. Their BUA is also treated differently – expansions get 24% BUA beyond the current pre-1993 structure, meaning they may put more than 24% BUA on a site. Currently, they don’t have to treat any of the existing or extra BUA. So, to account for this extra BUA and achieve the ordinance’s environmental aims, text requiring the inclusion of a vegetated swale, french drain, etc. on site has been included. This will help treat stormwater runoff for low-density expansions where it’s currently not required, while still fostering preservation. It also provides owners that wish to remain on their lot a viable way to do so rather than having to pursue demolition or sale/demolition.

SECTION 17.6.2: LOTS OF RECORD

- **Initially Modify, then Remove Exemptions:**
 - Currently a regulatory disparity exists between residential lots within the watershed – some lots that redevelop as low density are held to the 24% BUA limit (i.e. newer lots or older lots that are subdivided) and others are not (properties whose lot lines have not changed since 1993); this disparity has existed for 25 years. The options weighed by the PBOC included:
 - A. Retain Exemption: Continue to allow some older properties to exceed 24% BUA, holding new lots and older lots that have been subdivided to the 24% BUA limit;
 - B. Remove Exemption/Include Sunset Clause: Allow the exemption to continue for a certain period of time, then remove the exemption.
 - C. Remove Exemption: Remove the exemption, holding all residential lots that choose to demolish a structure and/or construct a new house to the same 24% BUA max. standard.
 - D. Modify Exemption: Revise text to create transition period that allows lots of record up to 34% built-upon area until 2025, after which time these lots become subject to the 24% maximum built-upon area to which post-1993 lots are currently held.
 - The PBOC explored a number of ways to continue or modify the current exemptions, balancing the exemptions with feedback received from the Board of Commissioners, Planning Board, and citizens that the proposed amendments should seek to treat landowners consistently. The PBOC drafted language that would have exempted select lots based on long-standing ownership (i.e. “grandfathering”). This seemed to be a promising alternative;

however, NC case law clearly indicates that such a practice would be difficult to defend legally because it treats landowners differently based on tenure. Likewise, various sunset measures were considered – such as exemption removal 6-12 months after ordinance adoption, or requiring landowners to apply for a specific exemption period after ordinance adoption – but were determined to work against the standards’ purpose by inciting building in excess of 24% on remaining lots or treating landowners differently.

- After further exploring lots and performing case studies, the idea of creating a transitional period allowing exemption up to 34% was conceived. This would allow pre-1993 lots that are both undeveloped and already developed to expand up to 34% built-upon area until 2025 – the maximum amount of built-upon area attained through a minor variance. After 2025 these lots would be subject to the same standards as pre-1993 lots – 24% maximum built-upon area. The transition period affords landowners additional time to plan for and make decisions on their lots while ultimately recognizing the importance of treating all similar lot types the same (i.e. in 2025). Couple with all residential lots meeting the buffer and rainwater management strategies, it represents an incremental approach to achieving regulatory aims and parity.
- Therefore, the proposed standards reflect Option D and would allow all residential lots of record redeveloping via the low density option to go up to a 34% BUA limit. Note: Landowners unable to find a suitable site layout may pursue a major variance for more than 34% BUA coverage. Post-1993 lots would still be held to 24% BUA.

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.
- **Include Redevelopment Section:** This section was added based on feedback from Meck. County and land owners in the Village Center/Village Commerce Planning Areas. The proposed standards allow flexibility on the downtown block bounded by Main, Jackson, and Depot Streets if redevelopment results in no net increase in BUA or the disturbed area is less than one acre; and, the standards appropriately accommodate redevelopment on adjacent blocks (i.e. the Depot building and Sadler Square) by requiring engineered stormwater controls if these blocks pursue redevelopment beyond 24% BUA.

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 will be considered by the Board of Adjustment on a case by case basis (since state law allows any applicant to make a request to pursue the program). Importantly, the text signals the types of proposals the Board of Adjustment would entertain; paired with the 17.8.2.B.6 revision this represents an increase in the board's oversight.
 - 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. Signal Preferred Projects: Clearly identify example projects advancing clearly-identified town aims for participation in 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. The following uses are considered preferred candidates 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 will 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).

CHAPTER 17: Watershed Protection Overlay District - Update (May 16, 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]: 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 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 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 [LL2]: This definition was added to help distinguish between what constitutes an expansion and a demolition.

Commented [LL3]: A definition for Existing Development was added per Meck. County recommendation. This was not previously defined in Section 17 of the ordinance, but the term is referenced several times in this section.

Commented [LL4]: 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.

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 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.

Commented [LL5]: NCDEQ suggested this revision—see comment for High Density Option definition.

Commented [LL6]: Definition added per Meck. County recommendation. Redevelopment is not defined in the current version of Section 17.

Commented [LL7]: NCDEQ suggested this revision—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):

Major variance means a variance from the minimum statewide watershed protection rules that results in the relaxation, by a factor greater than five percent of any buffer, density or BUA requirements under the high density option; any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system; or relaxation by a factor greater than 10 percent of any management requirement under the low density option.

Commented [LL8]: This was added to clarify that the variance is from a town standard, which are often more stringent than state standards. This change also applies to the Variance, Minor definition.

Commented [LL9]: NCDEQ suggested this revision to match the EMC's definition in 15A NCAC 2B .0202(43):

Minor variance means a variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to five percent of any buffer, density or BUA requirement under the high density option; or that results in a relaxation by a factor up to 10 percent of any management requirement under the low density option.

Example: Under the current Section 17, a request to increase BUA by less than 10 percent under the low density option would be considered a major variance to the Town but a minor variance by the EMC's rule.

Commented [LL10]: 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 [LL11]: Added per Meck. County recommendation to clarify the procedure for when the watershed boundary lies 25 feet or less from any parallel lot line.

Commented [LL12]: Added per Meck. County recommendation to clarify 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 [LL13]: 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 must meet the requirements of this section, however the built-upon area of existing development is not required to be included in the impervious calculations. If structures classified as existing development are removed, the parcel's built-upon-area must comply with the standards of this ordinance. Lots where a single-family residence is the principal use, and the residence is defined as existing development, shall not be required to meet the built-upon area expansion requirements until January 1, 2025; however, these expansions must meet the applicable buffer and enhanced stormwater requirements.

For expansions to existing development that do not qualify as high-density, enhanced stormwater practices shall be used to treat stormwater runoff. Practices must be approved by the Planning Director, in consultation with Charlotte-Mecklenburg Stormwater Services. These practices shall be appropriately-scaled and tailored to each site, and include but are not limited to: Installation of a rain garden, bioswale, vegetated swale, infiltration trench/drain (i.e. French drain), or downspout modification (i.e. distribution to a garden, trench, or rain barrel).

17.6.2 Existing Lots of Record

Until January 1, 2025, an existing lot of record, regardless of whether or not a vested right has been established, may be developed or used for single-family residential purposes subject to applicable buffer requirements, the enhanced stormwater strategies described in 17.6.1, and a maximum built-upon area of 34 percent. Note: Multiple contiguous lots of record under single ownership must conform to the watershed ordinance criteria. Beginning January 1, 2025 all existing lots of record must comply with the built-upon area limits established in Section 17.7.1.2.

17.6.3 Nonconforming Situations

17.6.4 Existing Development

17.6.3 Redevelopment

- A. Redevelopment, as defined in this ordinance, shall comply with the Davidson Planning Ordinance subject to item B. below.
- B. Redevelopment, as defined in this ordinance, is not subject to the requirements of this ordinance if located in the following planning areas and meeting the specified conditions:
 1. Area A:
 - a. Location: Village Commerce or Village Center parcels within the block bounded by Depot, Main, and Jackson Streets.
 - b. Conditions:
 1. The redevelopment will not result in a net increase in built upon area from the previous development and will provide greater or equal storm water control than the previous development; or
 2. The redevelopment will result in the disturbance of less than one acre.
 2. Area B:
 - a. Location: Village Center parcels along the north side of Depot Street and Village Commerce parcels west of Jackson Street.
 - b. Conditions:

Commented [LL14]: Section revised per Meck. County recommendation. Under the current Section 17, "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..."

The suggested revision removes the exemption for expansions to existing single-family residential development.

Commented [LL15]: This language was added to extend the single-family expansion exemption from BUA limits until Jan. 1, 2025.

Commented [LL16]: This text was added so that expansions, that will result in more than 24% BUA on a site, are required to provide some level of low-cost, targeted stormwater treatment to help compensate for the additional BUA on a lot.

Commented [LL17]: This section has been modified to allow Lots of Record being developed for single-family residential purposes to build up to 34% BUA (what would be permitted under a minor variance), subject to buffers and enhanced stormwater requirements.

The PBOC proposes extending this 34% BUA allowance for Lots of Record until Jan. 1, 2025. After this date, this exemption will expire and all lots will be subject to the same BUA limits.

Commented [LL18]: Remove per Meck. County recommendation as this section is not applicable and conflicts with DPO Section 12 Nonconformities

Commented [LL19]: Remove—this section is a repeat of Section 17.6.1

Commented [LL20]: Section added based on feedback from Meck. County and land owners in the Village Center/Village Commerce Planning Areas. Allows for flexibility in meeting watershed requirements for properties in downtown within the statewide watershed protection rules.

1. The redevelopment will not result in a net increase in built upon area from the previous development and will provide engineered stormwater controls if the built-upon area exceeds 24%; or
2. The redevelopment will result in the disturbance of less than one acre.

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 [LL21]: Revised per Meck. County recommendation to clarify 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 [LL22]: Revised per Meck. County recommendation to clarify 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.

Commented [LL23]: Revised per Meck. County recommendation.

Language referencing a maximum of 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.

Meck. County suggested adding a Reserve Built-Upon Area 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. patios).

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.

Commented [LL24]: 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 [LL25]: This sentence clarifies that these terms refer to the amount of hardscape on a site (i.e. land coverage) and not units/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.

17.7.2 Cluster Development

Commented [LL26]: Remove per Meck. County recommendation. 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 [LL27]: Revised per Meck. County recommendation. Clarifies that Davidson has no Protected Area within our jurisdiction. See comment for 17.7 for further explanation.

Commented [LL28]: Meck. 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 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.

Commented [LL29]: This text was added to reference existing Town of Davidson requirements, ensuring that the bond fees paid are consistent with established processes.

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

Commented [LL30]: Section revised based on Meck. County stormwater control requirements (Charlotte-Mecklenburg BMP Design Manual).

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

Commented [LL31]: Revised per Meck. County recommendation to clarify how buffers are measured and what actions may be undertaken within buffer areas with Planning Director approval.

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

Commented [LL32]: This section was largely reorganized to provide clarification on the process for Board of Adjustment hearings for both major and minor watershed variance requests.

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:

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

- 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:
- 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.
 - Recipients:** Notices shall be sent by first class mail to the following:
 - Nearby Property Owners:** All adjacent and abutting property owners.
 - Local Governments:** The Clerk of all municipal and county governments having jurisdiction within the same watershed; and
 - Major Water Consumers:** Any major consumer of water whose point of intake lies within the same watershed.
 - Mailing/Date:** Notices shall be sent by the Town by first class mail at least 10 days prior to the public hearing.
 - 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.
8. **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.

Commented [LL34]: This section was added to clarify the content requirements of public notification letters for Board of Adjustment hearings

6. 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.

7. 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.

Commented [LL35]: 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.

- 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.

Commented [LL36]: 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.

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

Commented [LL37]: This text clarifies the Board of Adjustment's ability to deny a proposal based on adopted plans and policies.

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 Division of Water Quality Submission:** Upon issuance of the BUA Averaging Certificate and signed plat, one copy must be sent to the NC Division of Water Quality (DWQ). 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.

Commented [LL38]: This language was modified to clarify what documentation is required of the receiving parcel and donating parcel to constitute a complete BUA averaging application.

DPO 17 UPDATE: WATERSHED ORDINANCE



College Town. Lake Town. *Your Town.*

Section 17 Watershed Protection Overlay District
Planning Ordinance - Text Amendments
Planning Board Hearing/Recommendation

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May 21, 2018

TEXT AMENDMENTS – OVERVIEW

TOPICS COVERED

1. **Public Engagement**
2. **Purpose & Background**
3. **Strategic Plan/Core Value/Comp. Plan Alignment**
4. **What's Not Changing**
5. **Amendment Highlights, Major Topics/Resolutions**
6. **Options Summary**
7. **What's Changing/Details**
8. **Pros & Cons**
9. **Next Steps**

SECTION 17 - TEXT AMENDMENTS

PUBLIC ENGAGEMENT / SINCE JAN. 2018

- **Planning Board Ordinance Committee:**
 - 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, February, March, April
- **Board of Commissioners:** Discussed at 2018 Meetings – January, February, April
- **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

PURPOSE

- **Intent:** To keep drinking water clean, require higher standards for properties near Lake Norman (17.7.1).
- **Accomplished By:**
 1. Vegetated Buffers On-Site (near streams/lake)
 2. Limiting Amount of Built-Upon Area [BUA] on a Lot
 - BUA = Hardscape (i.e. driveways, building footprint; not fences, decks)
- **Addresses:** Runoff carrying pollutants into water.
- **Applies:** To properties within 0.5 mi. of Lake Norman (i.e. west of Main St.)



SECTION 17 - TEXT AMENDMENTS

BACKGROUND

In March 2017, Charlotte-Mecklenburg Stormwater Services (CMSS) suggested that Davidson update our Watershed Ordinance to:

1. **Clarify Standards** (i.e. Single family residential development exemption)
2. **Address Inconsistencies** (i.e. Remove repeating “Existing Development” section)
3. **Remove Inapplicable Sections** (i.e. Cluster Developments)

Additionally, staff worked with CMSS to identify/resolve Davidson-specific issues, including:

- Expansions that exceeded the BUA criteria;
- Demolitions that avoided the BUA criteria; and,
- Tailoring standards to fit downtown.



SECTION 17 - TEXT AMENDMENTS

POLICY ALIGNMENT

- **Strategic Plan:**
 - Land Use, Community Engagement, Historic Preservation, Affordable Housing, Economic Development, Partnerships
- **Core Values:**
 - Healthy Environment, Open Communication, Historic Mix of People, Traditional Character, Economic Health, Interjurisdictional Cooperation
- **Comprehensive Plan:**
 - Enable Faithful Stewardship
 - » Goal 3 - Sustain/Enhance Air & Water Quality
 - Maintain Quality Design/Sound Planning Principles
 - » Goal 1 - Prioritize Infill/Mixed Use Development Within or Near Already Developed Areas



SECTION 17 - TEXT AMENDMENTS

WHAT'S NOT CHANGING

- **Environmental Rigor:** Emphasis on Clean Drinking Water
- **Maximum BUA Limits:** Thresholds + Requirements = Same for Post-1993 Lots
 - 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'

**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

SUMMARY OF PROPOSED SUBSTANTIVE CHANGES:

- **Section 17.3:** Definitions
 - Existing Development; Redevelopment; Variances
- **Section 17.6:** Exceptions to Applicability
 - Expansions; Existing Lots of Record; Redevelopment
- **Section 17.8:** Built-Upon Area Averaging (i.e. “Density Averaging”)
 - Reorganization, Increase BOA Direction to Deny; Signal Preferred 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

MAJOR TOPICS + RESOLUTIONS

TOPIC	RESOLUTION
▪ Definitions: Existing Development, Redevelopment, Variance	» Added Definitions, Tweaked/Aligned with State
▪ Expansion/Single-Family Exempt: All Other Lots Limited to 24% Expansion	» All Lots Buffer/Enhanced Rainwater Mgt. » Single-Family Unlimited BUA Exemption Until 2025
▪ Exemption/Lots of Record: No BUA Limit on Pre-1993 Lots (i.e. Regulatory Disparity)	» All Single-Family Pre-1993 Lots 34% BUA Until 2025 (i.e. Undeveloped <u>and</u> Developed)
▪ Built-Up Area Measurement: Non-contiguous Ambiguity	» Properties Must be Contiguous, Adjoining, Adjacent for BUA Calculation
▪ Built-Up Area Averaging: Transactional, Little Board of Adjustment Discretion	» Increase Board of Adjustment Discretion » DPO Signals Preferred Projects



SECTION 17 - TEXT AMENDMENTS

OPTIONS SUMMARY

- **Built-Upon Area Averaging (“Density” Averaging):**

- A. Do Not Modify
- B. Require Board of Commissioners Decision
- C. Enhance Board of Adjustment Discretion
- D. Signal Preferred Projects in DPO Text
- E. Remove from the Ordinance

*PBOC Recommendation: Options C + D Address Need for Increased Oversight

- **Exemptions (Existing Lots of Record):**

- A. Retain Exemption
- B. Remove Exemption/Include Sunset Clause
- C. Remove Exemption (Equalizes All Lots 24% Now)
- D. Modify Exemption (~~Tenure~~, 34% BUA Until 2025/Equalizes All Lots 24% 2025)

*PBOC Recommendation: Option D Addresses Citizen Concerns



SECTION 17 - TEXT AMENDMENTS

RULES NOW / WHAT'S CHANGING

CURRENT

- **Expansion Non-Residential/Non-Single Family Residential:** No Rainwater Management
- **Expansion Single-Family Exempt:** No BUA Expansion Limit; Buffer/Enhanced Rainwater Mgt.
- **Single-Family Lot of Record:** No Buffer or BUA Limit on Pre-1993 Lots
- **Single-Family Not Lot of Record:** 24% BUA Limit on Post-1993; Buffer Required

PROPOSED

- » Enhanced Rainwater Management for Low-Density
- » Single-Family BUA Exemption Until 2025; Afterwards 24% BUA Expansion Max.
- » Buffer/Enhanced Rainwater Mgt.
- » All Single-Family Lots of Record 34% BUA Until 2025 (i.e. Undev. & Developed); Minor Variance Equivalent
- » After 2025 All Single-Family Lots 24% BUA Max.
- » All Lots Buffer/Enhanced Rainwater Mgt. if Over 24% BUA



SECTION 17 - TEXT AMENDMENTS

PROS & CONS

PROS:

- **Environmental Regulations:** Up-to-Date, Effectively/Fairly Applied
- **Exemptions Removed:** Expansions & Demolitions Avoiding BUA Criteria
- **Measured Flexibility Downtown:** Village Center + Village Commerce
- **Increased Administrative Clarity:** Improve Consistency, Reduce Frustration
- **Maintains Stability:** Affirms/Clarifies Options of Long-standing Owners and Supports Existing Development's Character

CONS:

- **Inaction:** Persistence of Exemptions/Regulatory Disparity for Decades
- **Additional Design:** Post-1993 Lots Require Focused Design



SECTION 17 - TEXT AMENDMENTS

NEXT STEPS

- **BOC Public Hearing:** 5/8/18
- **Planning Board Review + Recommendation:** 5/21/18
- **Planning Board Update to Board of Commissioners:** 6/5/18
- **BOC Action (Potential):** 6/12/18



QUESTIONS





Agenda Title: Rural Area Plan Update

Summary: Staff will share updates regarding their recent experiences presenting about the Rural Area Plan at the American Planning Association and Congress for the New Urbanism conferences.
