



MEMO: WATERSHED ORDINANCE

Date: February 27, 2018
To: Board of Commissioners
From: Jason Burdette, Planning Director
Re: DPO Section 17 (Watershed Ordinance) - Text Amendments

1. BACKGROUND/PURPOSE

- **Purpose:** The proposed amendments address standards that have been in place since 1993. Their purpose is to keep our drinking water in Lake Norman clean. These standards accomplish this in two ways: 1. By requiring vegetative buffers on a site; and, 2. By limiting the amount of "built-upon-area" (BUA) that can be placed on a lot. The less buffers and more BUA a lot contains then the more runoff containing dirt, fertilizer, chemicals from cars, etc. washes off onto our streets and gets into the lake. BUA is hardscape surfaces like a driveway or building footprint; it is not things like fences or decks that have grass underneath. The standards apply to properties within 0.5 mi. of the lake (i.e. the "critical area"), which is generally everything west of Main St.
- **Background:** In March of 2017, Charlotte-Mecklenburg Stormwater Services (CMSS) suggested that Davidson update DPO Section 17 to clarify standards, address inconsistencies, and remove inapplicable sections in the Davidson Watershed Ordinance. Mecklenburg County provided a preliminary list of recommend changes to Davidson's Watershed Ordinance on March 10, 2017. Additionally, staff worked with CMSS to identify issues that have arisen that are particular to Davidson – such as expansions and demolitions that avoid the watershed rules.

2. OVERVIEW OF SUBSTANTIAL CHANGES

Note: The following highlight substantive changes to DPO Section 17. Additional changes are being proposed to clarify definitions, standards, and address inconsistencies.

SECTION 17.3: DEFINITIONS

- **Add "Existing Development" Definition (not previously defined):** Existing development includes projects that are built or have established a vested right under NC zoning law as of 10/1/1993.
- **Add "Redevelopment" Definition (not previously defined):** Redevelopment includes the removal and replacement of BUA on a lot after 10/1/1993.
- **Revise Variance Definitions, "Minor/Major":** Revised to align with NCDENR's definition (i.e. for low-density minor is up to 10% variance, major is greater than 10%; for high-density minor up to 5% minor and major is greater than 5%). Minor still requires BOA approval and Major requires BOA + state approval.

SECTION 17.6: EXCEPTIONS TO APPLICABILITY

- **17.6.1 Existing Development, (Expansions), Update Language:** Going forward, CMSS recommends that expansions to single-family development should meet the same rules as all other existing development – i.e. the BUA of the expansion will be limited 24% or 50% of the lot area depending on the option selected. The BUA of the existing structure is not counted.
- **17.6.2 Existing Lot, Update Language:** Currently, an existing lot of record may be developed/used for single-family residential purposes without being subject to the watershed rules. These lots existed before 1993 and their lot lines haven't changed. The proposed text clarifies the only two scenarios where the Lot of Record exemption applies:
 1. If the lot has never been previously developed, then it may be developed for a single-family detached house subject only to buffer requirements.
 2. If the lot has been developed but is owned by the same individual or family since before 1993, then the lot may be redeveloped for use as a single-family detached house subject only to buffer requirements. This exemption was added in response to citizen concern.
- **17.6.3 "Redevelopment," Add New Section:** The proposed text clarifies how the redevelopment of parcels should be handled. Additionally, it provides flexibility in the redevelopment of parcels located in the Village Center and Village Commerce Planning Areas:
 1. On the block bounded by Depot, Main, and Jackson Streets, these parcels would be allowed to use the amount of BUA currently on the site, but not increase it, if the redevelopment provides the same or greater amount of stormwater control than the previous development.
 2. For Village Center parcels along the north side of Depot St. and Village Commerce parcels west of Jackson Street, these parcels would be allowed to use the amount of BUA currently on the site, but not increase it, and the redevelopment must provide engineered storm water control if the built-upon area exceeds 24%. This was recommended by CMSS and addresses citizen concerns.

In each case, if the redevelopment disturbs less than one acre the parcel is exempt from the watershed rules (per state statute). Note: All projects, regardless of size, still have to provide adequate measures to control runoff during construction.

SECTION 17.7 WATERSHED SUBAREAS ESTABLISHED

- **17.7.1.2 Reserve Built-Upon Area Limits:** CMSS recommends adding text that requires the initial owner to reserve BUA of 1% (not less than 150 sq. ft.) for future BUA additions like a porch, patio, etc. (i.e. site components that would not require a building permit but that would impact a site's allowed BUA). This section also clarifies the rule's applicability: Detached houses, attached houses, or townhomes (i.e. individual lots that may have more than one owner over time).

SECTION 17.8: DENSITY AVERAGING

- **Reorganization:** The existing ordinance's Section 17.8 Density Averaging consists of 12 bullet points, with rules and document requirements buried within. The proposed changes rework the entire section to clarify the purpose, eligibility, process, and documentation requirements for Density Averaging.

3. EXAMPLES: EXISTING DEVELOPMENT EXPANSIONS, EXISTING LOTS OF RECORD

- A. Existing Dev./Expansion, Current Practice:** BUA of Expansion Limited to 24/50%, SF Exempt
- B. Existing Dev./Expansion, Future Practice:** BUA of Expansion Limited to 24/50%, SF Not Exempt
- C. Lot of Record, Existing Conditions:** Pre-1993 Lot, Older Home, Small BUA Footprint [i.e. 17% BUA]
- D. Lot of Record, Current Practice:** Pre-1993 Lot, Home Demolished, High BUA Result [i.e. XX% BUA]
- E. Lot of Record, Future Practice:** Pre-1993 Lot, No Existing Development or Same Owner/Family, BUA Rules Do Not Apply, Buffer Rules Apply (for lots on streams/lake) [i.e. XX% BUA]
- F. Not Lot of Record, Future Practice:** Post-1993 Lot/Owner, BUA/Buffer Apply [i.e. 24/50% BUA]

4. WHAT IS NOT CHANGING

- The ordinance's emphasis on providing clean drinking water.
- Max. BUA limit amounts are not changing (i.e. 24% low-density/50% high-density).
- Buffer requirements are not changing (i.e. 40' for low-density development/100' high-density)

5. PROS/CONS

PROS

- Ensures state- and county-mandated environmental regulations that protect our drinking water are updated and effectively/fairly applied.
- Closes loophole allowing recently purchased lots to be exempt from standards.
- Allows flexibility in Village Center and Village Commerce Planning Areas.
- Provides increased clarity to staff administering the regulations as well as landowners building within the regulations.
- Maintains greater stability for single-family lots subject to development pressures by clarifying and affirming rights of long-standing landowners and their families.

CONS

- That the loophole has not been closed sooner, leading to inconsistent application and frustrating circumstances for staff and landowners.
- Lots purchased since 1993 will require more thoughtful design of the site.