

DPO 17 UPDATE: WATERSHED ORDINANCE



College Town. Lake Town. *Your Town.*

Board of Commissioners & PBOC Work Session
Section 17 Watershed Protection Overlay District
Planning Ordinance - Text Amendments

June 5, 2018

TEXT AMENDMENTS – OVERVIEW

TOPICS COVERED

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



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

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

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, May
- **Digital + Print Media:**
 - E-Crier Notifications: Monthly, Open House (Specific)
 - Website: Updates Tab
 - Planning Board/Board of Commissioner Agendas
 - Town Messenger Newsletter (All Households)



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POLICY ALIGNMENT

- **Strategic Plan:**
 - Primary: Land Use, Community Engagement; Secondary: 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
 - Encourage Committed Civic Involvement & Responsibility
 - » Goal 2 – Sustain + Promote More Resident Volunteerism/Involvement



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.*



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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



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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

OPTIONS SUMMARY

- **No Action:**
 - A. General Comment:** Persistent errors, inconsistencies, and inapplicable sections *not* addressed
 - B. Expansions/Single-Family Exempt:** Exemption for expansions to pre-1993 single-family homes remains; All other lots limited to 24% expansion + buffers
 - C. Exemption/Lots of Record:** No BUA limit or buffer requirements on pre-1993 lots for single-family development
 - D. Redevelopment:** Not addressed
 - E. Built-Upon Area Measurement:** Non-contiguous ambiguity remains
 - F. Built-Upon Area Averaging:** Permitted without increased scope of the Board of Adjustment; Transactional



SECTION 17 - TEXT AMENDMENTS

OPTIONS SUMMARY

- **Mecklenburg County Action Only:**
 - A. **General Comment:** Persistent errors, inconsistencies, and inapplicable sections addressed somewhat
 - B. **Expansions/Single-Family Exempt:** Expansions to pre-1993 single-family homes must meet the requirements of the ordinance; 24% expansion + buffers
 - C. **Exemption/Lots of Record:** No BUA limit or buffer requirements on undeveloped pre-1993 lots for single-family development; Exemption does not apply to a pre-1993 lot on which a structure has been demolished
 - D. **Redevelopment:** Defined; Flexibility in meeting watershed requirements for targeted area (i.e. Village Commerce and Village Center Planning Areas)
 - E. **Built-Up Area Measurement:** Non-contiguous ambiguity remains
 - F. **Built-Up Area Averaging:** Permitted without increased scope of the Board of Adjustment; Transactional



SECTION 17 - TEXT AMENDMENTS

OPTIONS SUMMARY

- **Full Adoption of Proposed Amendments:**
 - A. **General Comment:** Persistent errors, inconsistencies, and inapplicable sections addressed completely
 - B. **Expansions/Single-Family Exempt:** [COMPROMISE] Expansions to pre-1993 single-family homes exempt from BUA requirements until 2025; buffers + enhanced rainwater strategies required
 - C. **Exemption/Lots of Record:** [COMPROMISE] For single-family development, pre-1993 lots (undeveloped AND developed) may go to 34% + buffers + enhanced rainwater strategies until 2025
 - D. **Redevelopment:** Defined; Flexibility in meeting watershed requirements for targeted area (i.e. Village Commerce and Village Center Planning Areas)
 - E. **Built-Upon Area Measurement:** Properties must be contiguous, adjoining, or adjacent for BUA calculation
 - F. **Built-Upon Area Averaging:** Permitted with increased scope of the Board of Adjustment and preferred projects listed



SECTION 17 - TEXT AMENDMENTS

RULES NOW / WHAT'S CHANGING – FULL ADOPTION

CURRENT

- **Expansion Non-Residential/Non-Single Family Residential:** No Rainwater Management
- **Expansion Single-Family Exempt:** No BUA Expansion Limit; No Buffer or 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



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PROS & CONS

PROS:

- **Environmental Regulations:** Up-to-Date, Effectively/Fairly Applied
- **Exemptions Modified:** 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



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OUTSTANDING QUESTIONS

- **Different Circumstances:** *Why does the DPO differentiate between Existing Lots of Record and Existing Development (expansions vs. demolitions)?*

Response: These are different conditions. The proposed standards – based on citizen/PB/BOC input – recommend treating landowners equally for each condition, removing the regulatory disparity that currently exists.

EXISTING DISPARITIES				
	Pre-1993 Structure	Post-1993 Structure	Pre-1993 Lot	Post-1993 Lot
Existing Development (Expansions)	46%	24%	N/A	N/A
Demolition + Rebuild	N/A	N/A	34%	24%



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OUTSTANDING QUESTIONS

- **Equal Treatment at 34%:** *Can every lot (both existing lots of record and lots created after 1993) be held to a 34% BUA limit?*

Response: The 24% limit is set by state law; the recommended changes propose a temp. transition period to 2025 that expands exemptions in order to allow landowners time to plan. In 2025, all lots would be treated equally (i.e. 24% BUA).

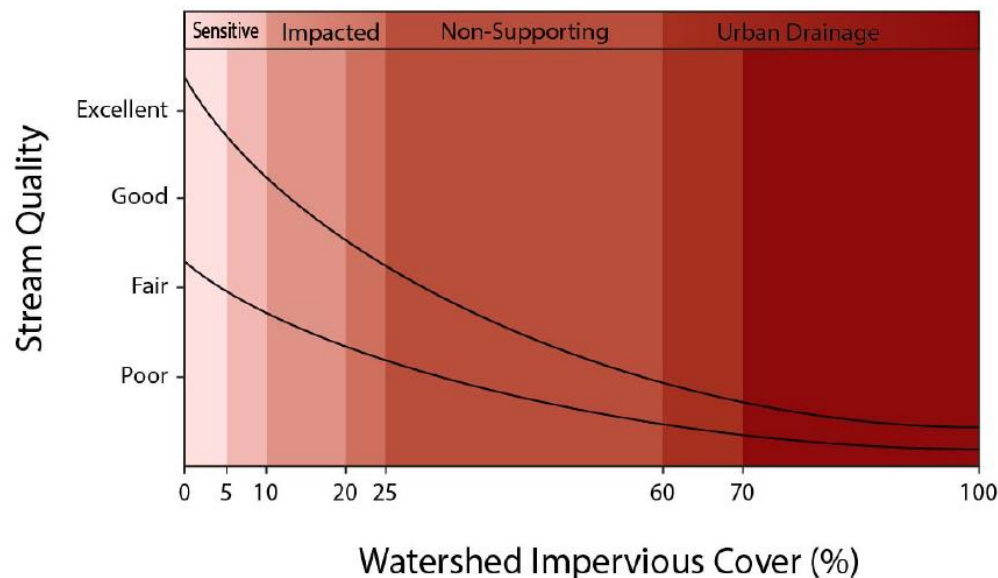


SECTION 17 - TEXT AMENDMENTS

OUTSTANDING QUESTIONS

- **Environmental Data:** *Is there information to support a 24% BUA limit?*

Response: According to NOAA, sensitive waters such as streams can be impacted by as little as 5-10% impervious surface area, with greater impairments expected when rates exceed 20-25%.



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OUTSTANDING QUESTIONS

- **Wet Detention Pond:** *Why is the reference to a wet detention pond as the primary stormwater treatment facility being removed from the ordinance?*

Response: NCDEQ proposes to revise the mandatory wet detention pond requirement to allow for different approaches (i.e. referencing the Meck. County Stormwater Manual that lists a variety of treatment strategies rather than prescribing one that may not fit a site's context).

- **Shared BMPs:** *Can individual property owners with existing single-family residences join together to pay for engineered stormwater?*

Response: Meck. County has not heretofore allowed such an arrangement. This approach is difficult for many reasons, including: The acquisition of land by participating landowners and formation of a legal entity to manage the facility; incomplete participation by all adjacent properties; the creation of easements; the physical installation of facilities (including grading within space constraints and the high cost of construction); associated/on-going maintenance to ensure performance; and, eventual facility replacement (est. every 20 years).



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WHERE WE'VE BEEN & NEXT STEPS

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



QUESTIONS



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