



## Targeted Conditional Zoning Growth Management Tool

To: Davidson Board of Commissioners  
From: Jason Burdette, Planning Director  
Date: July 9, 2019  
Re: Targeted Conditional Zoning

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### 1. OVERVIEW

The Board of Commissioners directed staff to explore strategies to better control the pace of development—specifically concurrency and targeted conditional zoning. After working with a consultant who specializes in growth management strategies and is familiar with North Carolina statutes, targeted conditional zoning is the preferred tactic to pursue.

#### **Background**

Davidson is not immune to growth pressures, which seem to have amplified in recent years. The regional economy is strong and Davidson is an attractive place to live—the college, historic buildings, and intentional design/regulations contribute largely to this. Davidson has had success in determining what type of development should go where; Davidson has not had much success in controlling the timing of development. Implementing a targeted conditional zoning mechanism could improve the town's ability to better control the pace of development, while simultaneously providing opportunities to secure specific town goals—such as affordable housing units constructed or green building practices.

North Carolina statutes permit two categories of conditional zoning:

- 1) *Conditional Use Zoning*: This is a two-step process that requires a) a rezoning to a conditional district, followed by b) a quasi-judicial action to grant a conditional use-permit. *Note: quasi-judicial actions limit ex parte conversations and require both evidence and findings of fact.*
- 2) *Conditional Zoning (CPA)*: This is a legislative action that combines the two-step process into one proceeding where the rezoning decision occurs concurrent with approval of the site-specific standards or site plan.

Davidson's existing conditional zoning process (CPA) is an example of conditional zoning. Communities may set thresholds that trigger CPAs. Those thresholds could include location, units, density (units/acre), vehicle trips generated/day, for example. Most communities do not set explicit thresholds for conditional zoning; instead, an applicant must elect to seek a CPA at the time of the application.

Regionally, communities utilize conditional zoning in a variety of ways. Below are several examples culled from the consultant's analysis:

Asheville: De facto CPAs are required for certain development thresholds (i.e. commercial development greater than 100,000 sf gfa or residential developments greater than 50 units).

Chapel Hill: Uses the quasi-judicial conditional use permit for specific zoning districts; often used to secure affordable housing.

Charlotte: Employs the CPA legislative process in specific zoning districts.

Cornelius: Uses the CPA process for specific uses (micro-breweries, commercial) and specific development processes (major subdivisions or conservation subdivisions).

Kannapolis: Conditional treated as an overlay. Base restrictions + site plan.

The CPA provides the town with the broadest degree of discretion in making zoning decisions. Enabling legislation expressly states that CPA may include conditions that ties the development to “an officially adopted plan or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.” However, if the applicant fails to agree to conditions (such as phasing that address infrastructure), the town could simply deny the CPA application.

Also, conditional zoning appears to be highly defensible. It relies on well-established authority in North Carolina (along with express authority to consider public facility adequacy).

## 2. RELATED TOWN GOALS

**Strategic Plan Goal:** Change land use regulations including tools available to slow growth.

**Planning Department Workplan:** (Other Growth Management Tools). “Research APFO (Adequate Public Facilities Requirements)” and “Explore Conditional Development Options” were both listed as secondary priorities on the Planning Department Workplan. They were both accelerated at the board’s direction with assistance from an outside consultant.

**Comprehensive Plan:**

- Continue to Provide Effective and Efficient Public Services—Growth should not place significant additional burdens on public services or infrastructure.
- Maintain Quality Design and Sound Planning Principles—ongoing initiatives: consider rezoning in the Growth Reserve to better regulate the timing and type of development.

**Core Values:** Davidson’s traditional character is that of a small, historic college town, so land planning will reflect its historic patterns of village-centered growth including connection of neighborhoods, preservation of our historic resources, conservation of rural area, and provision of public spaces.

**Planning Principle #6:** We must manage growth so the town can provide public facilities and services apace with development.

**Constituents Served:** All citizens.

## 3. OPTIONS/PROS & CONS

**Options:** Based upon the consultant’s research of both concurrency and targeted conditional zoning, it seems that conditional thresholds would be the quicker, more direct, and most defensible strategy to better control the pace of development.

**Strategy**

Staff will explore various targeted conditional zoning threshold metrics that could better serve Davidson using the legislative CPA tool. These could include specific unit counts, targeted density thresholds, a tiered approach based upon planning area, or a combination of all of the above, among others.

For example, any development above “x” units would trigger the conditional process; or, any density above “X” dwelling units/acre in Planning Area “A,” or any density above “Y” dwelling units in Planning Area “B” would trigger the conditional process. It’s important to note that Davidson’s existing planning areas already uniquely identify the type of development permitted in each respective zone. These existing planning areas should be recognized as baseline criteria as part of any new targeted conditional zoning process. After gathering data and researching these specific strategies more rigorously, staff will bring options back to the Board of Commissioners for feedback at an upcoming work session.

**Pros:**

- 1) Could better control the timing of development
- 2) Could provide opportunities to achieve specific town goals such as affordable housing or green building capacity
- 3) Could allow additional opportunities for public input
- 4) Provides the Board of Commissioners a direct say in the type and scale of development they would like to see
- 5) Could allow additional flexibility for creative/innovative development

**Cons:**

- 1) Reduces the predictability of the process for land owners, developers, citizens, planners
- 2) Could significantly lengthen approval process;
- 3) Would require additional staffing to accommodate lengthened and focused process
- 4) Would likely lead to a highly politicized process
- 5) Could negate previous community-wide planning efforts/initiatives/plans
- 6) Targeted threshold could result in the underutilization of land (i.e. not the highest and best use)

#### **4. FYI or RECOMMENDED ACTION**

This is for discussion purposes. However, if supportive, staff will do additional research regarding targeted conditional zoning and bring information back to the board.

#### **5. NEXT STEPS**

Staff will conduct extra research, seek feedback from the board, then begin the text amendment process.