

7-1

MEMORANDUM

TO: Mayor and Town Council

FROM: W. Calvin Horton, Town Manager

SUBJECT: Initial Report on Davidson, North Carolina Affordable Housing Initiatives

DATE: January 10, 2005

The attached report provides a summary of discussion at a recent staff visit to Davidson, North Carolina to learn about how that town has provided affordable housing.

At its Council planning session on January 15, 2004, the Council established as its seventh highest priority goal to learn about how Davidson, North Carolina has provided affordable housing through its inclusionary zoning ordinance by the Fourth Quarter 2004. In the November 8, 2004 Quarterly Report on Council Goals, we reported that staff was planning a trip to Davidson in mid-November 2004, to gather information for a report to the Council.

We plan to provide a more detailed report and analysis for a Council work session on affordable housing to be scheduled (please see related agenda item 5d(1).)

7-2

MEMORANDUM

TO: W. Calvin Horton, Town Manager
 Roger Waldon, Planning Director

FROM: Chris S. Berndt, Long Range Planning Coordinator

SUBJECT: Initial Report on Davidson, North Carolina Affordable Housing Initiatives

DATE: January 10, 2005

This initial report provides a summary of discussion from my recent staff visit to Davidson, North Carolina to learn about how that town has provided affordable housing.

BACKGROUND

At its Council planning session on January 15, 2004, the Council established as its seventh highest priority goal to learn about how Davidson, North Carolina has provided affordable housing through its inclusionary zoning ordinance by the Fourth Quarter 2004. In the November 8, 2004 Quarterly Report on Council Goals, we reported that staff was planning a trip to Davidson in mid-November 2004, to gather information for a report to the Council.

Davidson, North Carolina is located about 20 miles north of Charlotte, North Carolina. It has a population of about 7,100 and is home to Davidson College, a liberal arts college. Davidson has an Affordable Housing Coalition, a Land Trust organization associated with Davidson College, and an active Habitat for Humanity chapter.

DISCUSSION

On November 15, 2004, I met with the following representatives of Davidson, North Carolina:

- Kris Krider, Planning Director
- Dawn Blobaum, Assistant Town Manager
- Margot Williams, Town Board of Commissioners Member
- Marcia Webster, Executive Director, Davidson Housing Coalition

The group exchanged information about the structure and outcomes of their respective programs over a two hour discussion period.

Davidson Policy Basis

Davidson's affordable housing program is contained in the Town's new Planning Ordinance, and adopted by the Town Board of Commissioners on June 11, 2001, which was developed with

consulting assistance from Mark White. Section 6 (Improvements Required for Development) and Section 18 (Adequate Public Facilities Ordinance) contain provisions related to affordable housing (please see Attachment 1, Excerpts from Davidson Planning Ordinance.)

Section 6, Improvements Required for Development, requires that 12.5% of all residential units in all developments except farmhouse cluster, low-impact subdivision, and conservation easement subdivision be affordable, with 30% of the housing affordable to households with incomes less than 50% of the HUD median income, and the balance affordable to households with incomes less than 80% of the HUD median income. The ordinance recommends dispersion of units throughout a neighborhood.

The ordinance calls for the units to remain affordable for a period of at least 30 years, through a deed restriction or a binding contractual obligation. Developments with less than 8 dwelling units have the option of making a payment-in-lieu.

Section 18, Adequate Public Facilities Ordinance, includes affordable housing as one of the required public facilities, with a "Level of Service" defined as 12.5% (one in eight) dwelling units within the Town. This provision of the ordinance applies to applications for at least 3 residential lots, 3 dwelling units, or which comprise at least 3 acres.

These sections are two approaches to providing affordable housing and are designed to work in a complementary manner. The policy in Section 6 gets the developers to the table, and then the specifics of each case are negotiated.

The Town does not have special enabling legislation for these provisions.

Experience to Date

Since the adoption of the new Planning Ordinance, about 2000 houses have been approved with the 12.5% affordable housing provisions; of these 18 are under construction, but none of the affordable units have started as yet. One large project of about 800 units is just beginning to start grading. In general, Davidson has about 142 units of affordable housing, including 60 by the Davidson Housing Coalition, and 20 by Habitat for Humanity.

Developers propose to the Town the types of affordable housing they will build, and propose mechanisms for long-term affordability.

To date, there have been no payments-in-lieu under the formula in the ordinance. The Planning Director offered his opinion that the current formula does not work, and they are looking at ways to simplify it.

Reaction of the Development Community

According to the Davidson planners, the reaction of prospective developers is "tell us how much it will cost." Accordingly, the costs of affordable housing become an overall project cost. To date, Davidson has not been sued over the provisions of the ordinance.

Program Guidelines

Every case is a negotiated process. The Town is currently reviewing proposed guidelines of an Affordable Housing Task Force (please see Attachment 2). Key issues being addressed appear to be how to achieve mechanisms for long term affordability, and how to best administer the program in the long term.

Mechanisms for Long Term Affordability

The draft report in Attachment 2 describes two options for a developer:

- Develop an affordable housing plan that specifies how they will provide the 12.5% affordable housing and keep it affordable for 30 years, or
- Sign an agreement with an “approved affordable housing agency,” the Davidson Housing Coalition or Habitat for Humanity where the agency will take on the obligation for providing the affordable housing.

There is some interest in setting up a housing authority for the Town of Davidson to perform this function.

The Davidson Town Board of Commissioners will be considering the draft report during an upcoming retreat in the next few weeks.

Monitoring/Enforcement

The discussion members from Davidson agreed that this area is uncharted waters for them and that the community is just now starting to think about long-term issues related to monitoring and enforcement. In reviewing the draft report in Attachment 2, one can see an effort to develop and institutionalize guidelines for reviewing developer proposals to provide some consistency among approved plans.

As stated by the Davidson Planning Director, their biggest question is how to prove that the units will remain affordable for at least 30 years. Davidson is trusting developers to carry out their plans, but developers build fast and do not typically stay invested in projects for long.

NEXT STEPS

We plan on preparing a follow-up report and analysis of Davidson’s program for a proposed Council work session on affordable housing.

ATTACHMENTS

1. Excerpts from Davidson Planning Ordinance, June 11, 2001, as amended (p. 4).
2. Davidson Affordable Housing Task Force, Final Proposal (Draft) (p. 25).

7-6

④ ⑦-⑦

ATTACHMENT 1

TOWN OF DAVIDSON, N.C.
EXCERPTS FROM PLANNING
ORDINANCE
JUNE 11, 2001 AS AMENDED
(SECTION 6 AND SECTION 18)

5 7-8

6.0 Improvements Required for Development



The measure of any great civilization is its cities and a measure of a city's greatness is to be found in the quality of its public spaces, its parks and squares.

John Ruskin

6.1 Required Improvements

Prior to submission of an application for plan review, all new development shall meet the following requirements:

- ♦ A minimum of one means of vehicular access to the site, via public rights-of-way. Access must meet Town of Davidson's minimum right-of-way width and surfacing specifications for subdivisions other than rural, farmhouse cluster, low-impact, and conservation easement.

All new development shall include the following improvements:

- Public water supply distribution and fire hydrants per CMUD and county fire marshal requirements.
- Public sewer per CMUD requirements. Minor subdivisions are exempt from this requirement if gravity flow or low pressure system is not available within 250 feet of a property line.
- Public streets (paved) and other public rights-of-way and improvements to adjacent existing streets per Section 11. See 6.4.
- Easements (as required).
- Sidewalks per Section 11.
- Curb and gutter per Section 11.
- Street lights per Section 11.
- Pedestrian crossings (as applicable) per Section 11.
- Underground utilities per Section 9.
- Landscaping per Section 12.
- Affordable housing per 6.3.
- Neighborhood or mini parks. Minor subdivisions are exempt. See 6.6
- Transit shelters as required.
- Reservation of school sites. See 6.5.

6.2 Development Prohibitions

- ♦ Gates guardhouses, or other impediments to public accessibility on any streets, whether publicly or privately maintained.
- ♦ Private community water systems.
- ♦ Private wastewater treatments plants.



Gated communities and neighborhood entry monuments are not allowed

6.3 Affordable Housing Requirement

12.5% of all residential units in all developments except farmhouse cluster, low-impact subdivision, and conservation easement subdivision shall be affordable according to the following standards:

At least 30% of the affordable housing required by this ordinance will be affordable to persons or households whose annual gross income does not exceed 50% of the area median family income, as defined by HUD in its income limits. The balance will be affordable to persons or households whose annual gross income does not exceed 80% of the area median family income using the same definition.

The intent is to provide a variety of housing types to serve families of diverse size, composition, and economic means. Dispersion of affordable housing units throughout the neighborhood is highly recommended.

6.3.1 Options for Provision of Affordable Housing

For applications with eight or more dwelling units, the applicant shall comply with either subsection (a) or (b) below. For applications with fewer than eight dwelling units, the applicant shall comply with subsections (a), (b),

or (c) below.

(a) Construct affordable dwelling units for sale or rent within the proposed development. Affordable dwelling units shall include a deed restriction or a binding contractual obligation to a state agency, federal agency or a town affordable housing agency that ensures that the dwelling units will remain affordable housing and will be occupied by target households for a period of not less than 30 years.

(b) Convey developed lots within the development to a town affordable housing agency, to be determined by the Town, that will assume responsibility for conveyance and maintenance of dwelling units constructed on these lots.

(c) Pay to the Town a sum determined by the following formula:

$$P = (L \times 0.125) \times V, \text{ where}$$

P = Mitigation payment to be remitted

L = Number of residential units proposed. In a straight subdivision, one unit per lot will be assumed. Subsequent development activity will incur the appropriate fee.

V = Average appraised value of 1/8 acre in the proposed development as developed for residential uses. The value of the lots shall be determined by an M.A.I. appraiser selected and paid for by the applicant, and in accordance with generally accepted appraisal techniques. In the event the Planning Director accepts the methodology of the appraisal but disagrees with the appraised value, he may engage another M.A.I. appraiser at the Town's expense and the value shall be an amount equal to the average of the two appraisals. If either party does not accept the average of the two appraisals, a third appraisal shall be obtained, with the cost of said third appraisal being shared equally by the Town and the property owner. The third appraiser shall be selected by the first two appraisers and the third appraisal shall be binding on both parties.

The Town shall apply any mitigation payments paid pursuant to this subsection (c) to a reserve fund, that shall be used solely and exclusively for the acquisition of land for, or the construction of, affordable dwelling units. These funds shall not be commingled with the general funds of the Town.

6.3.2 Parcels Under Common Ownership

For purposes of determining whether an applicant may pay mitigation fees pursuant to this subsection (c), all adjacent parcels under common ownership shall be considered. Parcels shall not be subdivided in order to avoid compliance with the subsections (a) or (b).

The policy of the Town of Davidson is to avoid any evasion of subsections (a) or (b). Parcels under common ownership shall not qualify for mitigation payments pursuant to subsection (c) hereto where the total area of all such parcels is at least two acres.

The mitigation payment option set forth in subsection (c) above shall be used only once for any parcel or parcels under common ownership.

6.4 Town Street and Thoroughfare Plans

Where a development proposal includes any part of a town street or thoroughfare which has been designated as such on the official comprehensive plan map adopted by the Town or North Carolina Department of Transportation Mecklenburg-Union Metropolitan Planning Organization (MPO) or as part of any Transportation Plan adopted by the Town of Davidson, a right-of-way shall be reserved in the location shown on the plan at the width specified in this ordinance.

6.5 Reservation of School Sites and Other Public Buildings

If the Board of County Commissioners of Mecklenburg County or the Charlotte-Mecklenburg Board of Education have determined the specific location and size of any school site or other public building to be reserved and if this information appears in any comprehensive plan over which other local governments have jurisdiction, the Planning Director shall immediately notify the appropriate authority if all or part of the reserved location is included in the proposed subdivision. The responsible authority shall promptly decide whether it still wishes the site to be reserved. The responsible authority shall then have 18 months beginning upon the date of master plan approval within which to acquire the site by purchase or by condemnation as provided in G.S. 160A-372. If the Town Board

of Commissioners, the Board of Education, or any other local government having jurisdiction has not purchased or begun proceedings to condemn the site within 18 months, the developer may treat the land as freed from reservation.

If the total development size exceeds 200 acres or 500 housing units, the developer shall reserve for future purchase adequate (minimum of 18 usable acres) prominent sites for the location of schools. Sites reserved for civic uses may include up to one-half of their total area towards the open space dedication requirement.

6.6 Neighborhood or Mini Parks Requirement

A neighborhood or mini park (as defined in the Park and Recreation Master Plan) is required within 1/4 mile of every residential dwelling unit. A linear park (as defined in the Parks and Recreation Master Plan) may be substituted upon approval of the Planning Director.

6.7 Improvement Guarantees

6.7.1 Alternatives to Completion of Infrastructure

In lieu of meeting the requirement for the completion, installation and dedication of any and all public infrastructure improvements (e.g., water, sewer, streets, sidewalks, storm drainage, trees, supplemental buffer plantings, street lights, etc.) prior to final plat approval for subdivisions or Certificate of Occupancy for site plans, the Town of Davidson or its authorized agent may enter into a written agreement with the developer whereby the developer shall agree to complete all required improvements. Once this agreement is signed by both parties and the financial security required herein is provided, the final plat or Certificate of Occupancy may be approved by the Planning Director, if all other requirements of this ordinance are met. To secure this agreement, the developer shall provide either one, or a combination of the following guarantees.

A. Surety Performance Bond(s):

The developer shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina, and approved by the Board of Commissioners or its designee. The bond shall be payable to the Town of Davidson (or its authorized agent) and shall be in an amount equal to 1.5 times the entire cost, as estimated by the developer and verified by Mecklenburg County, of installing all required improvements. The duration of the bond(s) shall be until such time as the improvements are approved by the Town of Davidson's Director of Public Works, Mecklenburg County, or other proper authorities, and, if applicable, a maintenance guarantee is posted. See Section 6.9. Any expenses associated with the cost verification by the Town shall be paid entirely by the developer.

B. Cash or Equivalent Security:

The developer shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the Town (or its authorized agent) or in escrow with a financial institution designated as an official depository of the Town. The amount of deposit shall be equal to 1.5 times the entire cost, as estimated by the developer, and verified by the County, of installing all required improvements.

If cash or other instrument is deposited in escrow with a financial institution as provided above, then the developer shall file with the Town of Davidson (or its authorized agent) an agreement between the financial institution and the developer guaranteeing the following:

1. That said escrow amount will be held in trust until released by the Town of Davidson and may not be used or pledged by the developer in any other transaction during the term of the escrow; and
2. That in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification of the Town to the financial institution of an estimate of the amount needed to complete the improvements, immediately pay to the Town the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.

C. Funds in Lieu of Construction

At the option of the developer and with the consent of the Board of Commissioners, a developer may, in lieu of the construction of the portion of a street which crosses over a water course located at the boundary of the development, deposit with the Town the sum sufficient (in the Town's determination) to construct such

portion of the street. This option shall not be available when such street connects to an existing street at the boundary of the development or serves as a necessary means of access to a lot within the new development.

Funds may be paid in lieu of construction of improvements for minor subdivisions upon approval of the Town Manager.

6.7.2 Default:

Upon default, meaning failure on the part of the developer to complete the required improvements in the time required by this ordinance or as spelled out in the performance bond or escrow agreement, then the surety, or financial institution holding the escrow account, shall, if requested by the Town, pay all or any portion of the bond or escrow fund to the Town of Davidson up to the amount needed to complete the improvements based on an estimate by the Town. Upon payment, the Town, at its discretion, may expend such portion of said funds, as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the developer any funds not spent in completing the improvements.

6.7.3 Release of Guarantee Security:

The Town may release a portion of any security posted as the improvements are completed according to the provisions of Section 11. When the Town of Davidson approves these improvements, it shall immediately release the portion of the security posted which covers the cost of such improvements.

6.8 Maintenance Guarantee

The developer may, at their discretion, deposit with the Town the funds equal to the amount required for 1" of asphalt topping and 1/3 of the replacement cost of all curb, gutter, sidewalk, and asphalt paving.

This is the end of Section 6

10 7.13

18.0 Adequate Public Facilities Ordinance



We cannot live only for ourselves. A thousand fibers connect us with our fellow men and women; and among those fibers, as sympathetic threads, our actions run as causes, and they come back to us as effects.

Herman Melville

18.0 Adequate Public Facilities Ordinance

This ordinance shall be known and may be cited as the "Adequate Public Facilities Ordinance of the Town of Davidson."

18.1 Purpose, Intent And Findings

The purpose and intent of this ordinance is:

- A. To ensure that public facilities needed to support new residential development meet or exceed the level of service standards established herein.
- B. To provide a reasonable and realistic framework for the preparation of a capital improvements program needed to accommodate the town's anticipated residential growth and development.
- C. To ensure that no application is approved which would cause a reduction in the levels of service for any public facilities below the adopted level of service established in this ordinance.
- D. To ensure that adequate public facilities needed to support new residential development are available concurrent with the impacts of such development, as defined in this ordinance.
- E. To establish uniform procedures for the review of residential development applications subject to the standards and requirements of this ordinance.
- F. To discourage suburban sprawl and to promote the small town character of Davidson as called for throughout the Davidson Planning Ordinance.
- G. To facilitate implementation of goals and policies set forth in the Davidson Planning Ordinance, any master plans for the provision of public facilities and services, and the capital improvements program.
- H. To ensure that all applicable legal standards and criteria are properly incorporated in these procedures and requirements.

In adopting this ordinance, the town hereby finds and determines as follows:

- A. New residential growth and development within the town has an impact on the availability and capacity of the public facilities subject to this ordinance, which impact can be mitigated by the timing and sequencing of residential development as provided herein.
- B. New residential growth tends to create additional demands for commercial and non-residential development, and tends to occur before non-residential development. In other words, non-residential development tends to respond to existing residential growth. The town's policy is to encourage non-residential development subject to the design policies of the Davidson Planning Ordinance, which the Board of Commissioners hereby finds and determines will have the following effects: promote a sense of community, provide complete neighborhoods with a full range of services and civic uses, minimize traffic congestion by reducing the number and length of vehicular traffic trips, provide more efficient public services by accommodating more development within smaller areas of land, and promote economic development. Further, the exclusion of non-residential development from the purview of this ordinance will minimize the number of applications for review, thereby enhancing administrative efficiency and improving application response times. Accordingly, it is reasonable to apply the restrictions of this ordinance exclusively to residential development.
- C. The town further finds and determines that the development of market-rate housing creates the need for commercial and service sector employment, which attracts households earning below 50% and below 80% of the area median income. Such development creates a need for housing for those households, which need is typically not addressed by private sector housing development. Further, the concept of a complete community embraced by the New Urbanist principles of the Davidson Planning Ordinance includes neighborhoods which encompass a variety of household types at various levels of income. Accordingly, the Board of Commissioners hereby finds and determines that timing and sequencing new development to coordinate with the availability of such housing will enhance the ability of public and non-profit providers to provide such housing at an orderly and necessary pace, and will enhance the livability and profitability of market-rate housing in the community.
- D. The town has prepared and adopted a capital improvements program (CIP) in order to provide the public facilities needed to accommodate reasonably anticipated residential growth and development. The CIP will

be updated from time to time to reflect changes in the town's residential growth rate, available financial resources, and other relevant factors.

- E. The level of service (LOS) standards adopted for each public facility in this ordinance are necessary for the protection of the public health, safety and welfare, and will not unduly inhibit new residential growth and development within the town of Davidson.

18.2 Definitions And Rules Of Construction

The words, terms and phrases uses in this ordinance shall have the meanings assigned below.

AM Peak Hour - the one hour period of time in the morning representing the highest hourly volume of traffic flow on the adjacent public street system.

Adopted Level of Service - the level of service (LOS) standards adopted herein, as referenced in 18.9, table 2, column (C) of this ordinance, for a particular public facility. All applications are evaluated for the purposes set forth in this ordinance in accordance with these adopted levels of service. The adopted level of service also provides a basis for the establishment or expansion of a public facility or service, which is subject to this ordinance.

Affordable Housing – Housing available for occupancy or ownership by a target household at mortgage or rental payments not exceeding thirty percent (30%) of the base, unadjusted income limits. For purposes of determining whether a home qualifies as affordable housing, mortgage payments shall be computed based upon a down payment of ten percent (10%), and an interest rate not exceeding the prime rate. This definition applies to all dwelling units regardless of whether the owner and/or operator does or does not participate in a program sponsored by HUD.

Affordable Dwelling Unit – a dwelling unit that qualifies as affordable housing.

Apparatus – pumpers and tankers that meet the requirements of 11 NCAC 5A.0510, as may be amended from time to time, which document is hereby incorporated by this reference.

Applicant - any person or his duly authorized representative who submits an application as defined herein.

Application –

- A. The residential component of a preliminary subdivision plat, or
- B. If no subdivision plat is required, then the residential component of
 - i. A plan for an individual building or group of buildings,
 - ii. Any amendment to an approved planned unit development site plan, and/or
 - iii. Any amendment to a conditional use district or conditional use district site plan.
- C. The farmhouse cluster, low-impact subdivision, rural subdivision, and conservation easement subdivision, as defined in the planning ordinance, are excluded from the provisions of this adequate public facilities ordinance.

Available Capacity – see Capacity, Available.

Capacity - the maximum demand that can be accommodated by a public facility or service without exceeding the adopted level of service.

- A. For streets, capacity shall be measured by the maximum number of vehicles that can be accommodated by an intersection between 6:30 AM and 9:00 AM and between 4:30 PM and 7:00 PM under prevailing traffic and control conditions at that street's adopted level of service.
- B. For fire protection facilities, capacity shall be measured by the number of apparatus within the impact area.
- C. For law enforcement, capacity shall be measured by the number of law enforcement service units (LESU's) within the impact area.
- D. For parks, capacity shall be measured by number of community parks within the impact area.
- E. For greenways, capacity shall be measured by the linear mileage of greenways within the impact area.
- F. For affordable housing, capacity shall be measured by the number of affordable dwelling units within the impact area.

Capacity, Advanced – Capacity created by public facilities which do not currently exist, but which will be advanced pursuant to Section 18.5.6 of this ordinance.

Capacity, Available - A comparison of the capacity of a public facility to the demand for that facility, which is determined in accordance with Section 18.6.2 of this ordinance.

Capacity, Committed – The demand for capacity which will be used by a development that has been approved pursuant to Section 18.5.4, but not yet built.

Capacity, Planned – The capacity provided by planned capital improvements in the CIP for the year listed in Section 18.9, table 2, column (E) or earlier.

Capacity, Reserved – Capacity reserved for a development pursuant to Section 18.5.6 of this ordinance.

Capacity, Utilized – Capacity which is used or consumed by existing development and development approved before the adoption of the APFO at the time of the filing of an application.

Capital Improvement – a physical asset that 1) provides additional capacity, and 2) is identified as a capital improvement in the CIP. A physical asset shall be considered a capital improvement if: 1) it is constructed or purchased to provide, improve, or replace a public facility, and 2) has a cost of at least \$20,000 or is considered a long-term fixed asset. The cost of a capital improvement is generally non-recurring and may require multi-year financing. Capital improvements shall include physical assets providing additional capacity needed to accommodate the demand for public facilities generated by a proposed development, and shall include, for any public facility subject to this ordinance, assets identified as existing or projected needs in the capital improvements program. For purposes of this ordinance, capital improvements shall include those improvements identified as capital improvements in the CIP.

Capital Improvements Program or “CIP” – a schedule of future increases in the capacity of public facilities and Services adopted by the Board of Commissioners in accordance with the requirements of section 20.7 of this ordinance.

Committed Capacity – see Capacity, Committed.

Common Ownership – ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stock owner, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association, but excluding ownership of less than 1% of any stock traded on the New York, American or Pacific Stock Exchanges or traded over-the-counter where the price is listed at least weekly in the Wall Street Journal.

Community Park – a park that is intended for use by all residents of the town and is designated as a community park in the Parks and Greenway inventory maintained by the Planning Director and adopted by the Board of Commissioners or the CIP, or which meets the following criteria:

1. Is adjacent to public schools to provide multiple or joint use of facilities.
2. Provides recreational opportunities for the entire family and contains areas suited for intense active recreational purposes such as a recreation center building, athletic fields, swimming, tennis, and walking/jogging trails. The park may also possess areas of natural quality for outdoor recreation such as viewing, sitting, and picnicking.
3. Is a minimum of 5 acres per 1,000 people served.
4. Has an average service radius of two miles.

The town hereby finds and determines that the designation “Community Park” does not depend exclusively upon its size, location, or function.

Commuter Rail - Local and regional passenger train operations which are either locomotive-hauled or self-propelled, and are characterized by multi-trip tickets, specific station-to-station fares, railroad employment practices and usually only one or two stations in the central business district. Also known as “suburban rail.”

Connectivity Ratio - The number of street links divided by the number of nodes.

"Construction Commences" – means that construction has begun in accordance with the terms of a building permit, as set forth in NCGS § 160A-418.

Davidson Planning Ordinance – see Planning Ordinance

Dwelling Unit - a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII, § 202). A dormitory or a nursing facility shall not be considered a "dwelling unit" for purposes of determining the level of service for community parks and affordable housing.

Extraterritorial Jurisdictions or "ETJ" – The territory, outside of the town Limits within which the town may exercise the powers conferred by Article 19 of Chapter 160A of the NCGS, as set forth in NCGS § 160A-360.

Fire Station – a building which houses fire apparatus and fire department personnel.

Greenway - A publicly accessible linear path designed specifically for pedestrian and bicycle use which are identified in the Parks and Greenways inventory maintained by the Planning Director or identified in the Parks and Recreation Master Plan.

Group Quarters – A building used as housing for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery, or other similar use. Includes housing at a skilled nursing facility. Group quarters shall not be considered a dwelling unit for purposes of determining the level of service for affordable housing or community parks.

Highway Capacity Manual – the document entitled Highway Capacity Manual published by the Transportation Research Board of the National Research Council (Special Report 209, 3d ed. 1998), as said document may be amended, revised, replaced, or supplemented from time to time.

HUD – The United States Department of Housing and Urban Development.

Impact Area - the area within which a proposed development is presumed to create a demand for public services and facilities and so is evaluated for compliance with this ordinance. Impact areas for specific public facilities are defined in Section 18.9, table 2, of this ordinance.

Income Limits - the publication numbered PDR-99-02 and entitled "Transmittal of Fiscal Year (FY) 1999 Income Limits for the Public Housing and Section 8 Programs," as may be amended or superseded from time to time, which document is hereby incorporated by this reference. The applicable standard shall include the "Low (80%) Income Limit - 4 Persons" for Mecklenburg County. A copy of said publication is maintained in the office of the Planning Director.

Intersection Tier – the designation of intersections for the application of adopted level of service standards, as follows:

Tier 1 Intersections of: Main Street and Griffith Street, Main Street and Concord Road, Griffith Street and Beaty Street, Main Street and South Street.

Tier 2 Intersections of: Main Street and Beaty Street, Griffith Street and Jetton Road, Grey Road and Pine Road, East Rocky River Road and Davidson-Concord Road, Highway 73 and Davidson-Concord Road, Poplar Tent Road and Highway 73.

Tier 3 Intersections of: Shearer Road and East Rocky River Road.

Law Enforcement Service Unit (LESU) – a LESU consists of the equipment necessary for one (1) police officer. For purposes of this ordinance, one LESU equals one patrol car, including equipment ancillary to the officer.

Level of Service (LOS) - an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based upon and related to the operational characteristics of the facility. Level of service indicates the capacity per unit of demand for each public facility.

Light Rail System - An electric railway system characterized by its ability to operate single or multiple car trains along exclusive rights-of-way at ground level, on aerial structures, in subways or in streets, able to board and discharge passengers at station platforms or at street, track, or car-floor level and is normally powered by overhead electrical wires.

M.A.I. Appraiser - a member of the American Institute of Real Estate Appraisers.

Master Plan - a master plan submitted for approval pursuant to the Davidson Planning Ordinance, section 9, Development Proposal Review Process.

Non-Funded Capital Improvement - a capital improvement that appears in the capital improvements program but is beyond the CIP's planning horizon, so no funds have been budgeted for it by the town.

Node - the terminus or intersection of two (2) or more streets, including the head or bulb of a cul-de-sac.

Nursing Facility - a nursing home as defined in NCGS § 131E-101. A nursing facility shall not be considered a dwelling unit for purposes of determining the level of service for affordable housing or community parks.

Parks and Greenways Inventory - a list that includes, among other things, designated existing community parks and greenways, approved by the Board of Commissioners and maintained by the Planning Director.

Parks and Recreation Master Plan - the most recent edition of the Town of Davidson Parks and Recreation Master Plan, which document is hereby incorporated by this reference, as said document may be amended, supplemented, superseded or replaced from time to time.

Phased Development Plan - see NCGS § 160A-385.1(b)(3), as may be amended from time to time.

Planned Capacity - see Capacity, Planned

Planned Capital Improvement - a capital improvement that is proposed to be funded through the capital improvements program.

Planning Director - the Planning Director of the Town of Davidson, or his or her designee.

Planning Ordinance - The Davidson Planning Ordinance, adopted by the Board of Commissioners on June 12, 2001 with an effective date of July 1, 2001, which document is hereby incorporated by this reference.

PM Peak Hour - the one hour period in the afternoon or evening representing the highest hourly volume of traffic flow on the adjacent public street system.

Prime Rate - the "Bank Prime Loan" for the current month as published weekly by the Board of Governors of the Federal Reserve System in the H.15 "Selected Interest Rates" (see <http://www.bog.frb.fed.us/releases/H15/>).

Proposed Development - the development requested by an applicant that includes all residential buildings and land uses subject to an application.

Public Facilities - Streets, fire protection facilities, law enforcement service units, affordable dwelling units, community parks, and greenways.

Rail-Oriented Transit System - any light rail, diesel multiple unit, or commuter rail system.

Residential - any development or part of a development that includes at least one dwelling unit.

Site-Specific Development Plan - see NCGS § 160A-385.1(b)(5), as may be amended from time to time.

Street Link - a section of the street network, or a local street, defined by a node at each end or at one end.

Street Network - The street system within the incorporated areas and extra territorial jurisdictions of the town.

Subdivision - the division of a parcel of land as defined in NCGS §§ 160A-376 which is subject to the subdivision regulations of the Town of Davidson.

Target Household - persons or households whose annual gross income does not exceed 80% or 50% of the area median household gross income for persons or households, as defined by HUD in the income limits.

Town - the Town of Davidson, North Carolina.

Town Limits - the territory within the boundaries of the town, as prescribed in NCGS §§ 160A-21 to 160A-22, and any annexed territory as prescribed in NCGS § 160A-29.

Town Affordable Housing Agency - the Davidson Housing Coalition, Habitat for Humanity, or other agency des-

igned by the Board of Commissioners to provide affordable housing.

Traffic Engineer - a registered professional engineer who specializes in studying vehicular and pedestrian traffic conditions.

Trip Distribution - the geographic distribution of trip ends attracted to the proposed development, usually expressed as a percentage of the total site trips generated by (and assignable to) streets located on the street network that lie within the impact area. [Reference: R. Keller & J. Mehra, Site Impact Traffic Evaluation Handbook (Federal Highway Administration, 1985)]

Trip Ends - the total of all trips entering plus all trips leaving a specific land use within a specific time period. [Reference: R. Keller & J. Mehra, Site Impact Traffic Evaluation Handbook (Federal Highway Administration, 1985)]

Volume (Traffic) - the number of vehicles to pass a predetermined location during a specified period of time.

18.3 Abbreviations

The abbreviations used in this ordinance shall have the meanings assigned below:

HUD – The United States Department of Housing and Urban Development

ETJ – The Extraterritorial Jurisdiction of the town

LBCS – Land Based Classification Standards (20.5.3.1 below)

NCGS – North Carolina General Statutes

NCAC – North Carolina Administrative Code

18.4 Applicability And Compliance

The provisions of this ordinance shall apply to planned unit developments whether or not approved prior to the effective date of this ordinance and any application, except

- A. This ordinance shall not apply to any use, development, project, or structure, which does not result in a new dwelling unit, and
- B. This ordinance shall not apply to any project with a previously approved master plan.

18.4.1 Compliance

To comply with this ordinance all public facilities within the impact area of the development proposed in the application shall be determined to be available as set forth in section 20.6.

18.5 Procedures For The Processing Of Applications

18.5.1 Submission Requirements

It is the intent of this ordinance that no application subject to this ordinance shall be approved unless accompanied by a positive determination, or a positive determination subject to conditions, relating to the adequacy of public facilities as provided herein.

The applicant shall submit the following four items with the application:

1. The number of dwelling units.
2. The number of affordable dwelling units for target households
3. When an application is for a development that will produce 20 or more dwelling units, a traffic impact analysis is required.
4. Any required administrative fee.

18.5.1.1 Traffic Analysis

When an application is for a development that will produce 20 or more dwelling units a traffic impact analysis is required. A traffic impact analysis includes, at a minimum, the following for each of the intersections listed as Tier 1, Tier 2, or Tier 3.

- A. The background traffic level, which is presumed to exist prior to the application. The background

traffic level consists of the following three components.

1. Existing traffic conditions, records of which are kept by the Planning Director as noted in 18.5.3.1.
2. Updates to the existing traffic conditions to reflect traffic generated by projects approved, but not yet constructed.
3. Additional traffic generated by any nonresidential development associated with the application.

B. The incremental traffic level associated with the dwelling units called for in the application.

The traffic impact analysis shall also meet the following standards:

A. Intersection service volumes calculated at the adopted level of service, based upon the Highway Capacity Manual. The calculation of street level of service shall take into consideration lane width; number of lanes; restricted lateral clearance; service volume-to-capacity ratio; percentage of site passing distance greater than one thousand five hundred (1,500) feet; percentage of trucks; grade; and operating and average street speeds. The calculation for each street link shall be based upon ideal conditions. The Highway Capacity Manual shall be maintained on file with the Planning Director.

B. The traffic analysis shall be consistent with the assumptions established by the most recent edition of the Institute of Transportation Engineers. Trip Generation, which shall be maintained on file with the Planning Director. Where a trip generation rate has not been established by the trip generation manual, the applicant may use an alternative trip generation rate established by another source in accordance with the following:

1. Trip generation counts shall be made at a similar building or intersection within the Charlotte-Gastonia-Rock Hill, North Carolina Metropolitan Statistical Area; and
2. The trip generation counts shall be taken between 6 to 9 AM and 4 to 7 PM to verify a local, more accurate trip rate; and
3. The applicant shall demonstrate that the methodology conforms to the most recent edition of the Development and Application of Trip Generation Rates, Federal Highway Administration (HHP-22).

C. Trip distribution shall be based upon a gravity model in conformity with accepted traffic engineering principles, taking into consideration the land uses included within the proposed development; the area from which the proposed development will attract traffic; competing developments (if applicable); the size of the proposed development; development phasing; surrounding land uses, population and employment; and existing traffic conditions. The trip distribution from the proposed development shall be determined by applying one of the following methods:

1. Trip distributions based on previous studies, i.e., the percentage of generated site trips using each site approach corridor, as documented in previous studies for nearby sites or, if no such studies are available, the Mecklenburg-Union Metropolitan Planning Organization, Congestion Management System, Davidson Area (prepared by Charlotte Department of Transportation, Transportation Planning Division, October 15, 1996), as may be amended from time to time.
2. Experienced judgment and knowledge of local conditions.
3. A combination of 1 and 2.
4. Using a special zip code analysis for a representative land use.
5. Item 4 and a housing analysis if a 20-year study period will change the trip distribution pattern significantly.
6. Area wide travel model results including trip tables by trip purpose.
7. A gravity model. ("Quick Response System (QRS) Software Documentation"; Federal Highway Administration (HHP-22), January 1984. see also: Quick Response Travel Estimation, (NCHRP 187), Transportation Research Board, Washington DC, 1978.)

[Reference: R. Keller & J. Mehra, Site Impact Traffic Evaluation Handbook (Federal Highway Administration, 1985); Institute of Transportation Engineers, Traffic Access and Impact Studies for Site Development: A Recommended Practice, Chapter 6 (Draft Final Report, September 1989)]

D. The intersection analysis shall take into consideration lane geometry, traffic volume, percentage of

right-hand turns, percentage of left-hand turns, percentage of trucks, intersection width, number of lanes, signal progression, ratio of signal green time to cycle time (G/C ratio), street grades, pedestrian flows, and peak hour factor.

18.5.2 Completeness Review

The Planning Director shall determine whether the application is complete and complies with the submission requirements set forth in this subsection. If the application is incomplete or the submission requirements have not been met, the Planning Director shall so notify the applicant, specifying the deficiencies. If the application is complete and the submission requirements have been met, the Planning Director shall evaluate the application for compliance with the adopted level of service and shall submit a preliminary finding pursuant to Section 18.5.3, below.

18.5.3 Preliminary Finding

The Planning Director shall submit a preliminary finding, which shall include, at a minimum:

- A. The number of dwelling units proposed by the applicant;
- B. The timing and phasing of the proposed development;
- C. The specific public facilities within the impact area of the proposed development;
- D. The demand generated by the proposed development for each public facility.
- E. The available capacity for each public facility affected by the proposed development; and a finding as to the adequacy of each public facility as defined in Section 18.6.2.

If the Planning Director concludes that each public facility is adequate, the Planning Director shall make a positive recommendation.

If the Planning Director recommends that the application be conditionally approved, the preliminary finding shall recommend conditions or stipulations that may be included regarding the size of the proposed development, the timing and phasing of the proposed development, the provision of public facilities by the applicant or any other reasonable conditions to ensure that all public facilities will be adequate and available concurrent with the impacts of the proposed development.

If the Planning Director determines that any public facility is inadequate, the Planning Director shall either make a negative recommendation or a positive recommendation with appropriate conditions, consistent with 18.5.6.

18.5.3.1 Intersections

For purposes of determining compliance with the level of service standard for Intersections, an assessment of the existing level of service at the Tier 1, Tier 2, and Tier 3 intersections shall be maintained by the Planning Director

The applicant shall prepare a traffic analysis for public inspection consistent with Section 18.5.1.1 which shall be reviewed by the Planning Director consistent with Section 18.6 of this ordinance. The Planning Director shall consider the traffic analysis and the assessment of the existing levels of service and shall submit a preliminary finding as to whether there is available capacity for intersections to serve the proposed development.

The town finds and determines that certain factors such as interconnected street systems, mixed uses, and the availability of pedestrian facilities can result in fewer trips than isolated, low-density residential subdivisions. Accordingly, the number of trips produced by a proposed residential development that complies with subsections 1 and 2 below shall be reduced:

- A. By thirty percent (30%) when it also complies with subsection 3, below (hereinafter the "transit-oriented design option"); or
- B. By up to 30% when it also complies with subsection 4, below (hereinafter the "pedestrian-oriented design option").
- C. A proposed development which incorporates both the transit-oriented design option and the pedestrian-oriented design option may reduce the number of trips produced by combining the 30% reduction for the transit-oriented design option to the applicable percentage for the pedestrian-oriented design option, table 1 below).

D. A portion of a proposed development may be designated a transit-oriented development provided, however, that only that portion of the proposed development designated as a transit-oriented development shall qualify for a reduction in trips as set forth in this subsection.

1. The design of the proposed development shall be consistent with the Davidson Planning Ordinance, as determined by the Board of Commissioners, upon recommendation of the Planning Board.
2. The streets within the proposed development shall achieve a connectivity ration of not less than 1.40. The street links and nodes at existing streets provide access to a proposed subdivision shall not be considered in computing the connectivity ratio.
3. This section shall apply only if there is a rail-oriented transit system serving the Town of Davidson or planned to serve Davidson. The proposed development shall comply with all of the following:
 - a. The dwelling units in the proposed development are located within 1/2 mile radius of a rail station or within 1/2 mile of a stop along a mass transit route that links the proposed development to the rail station. A continuous system of pedestrian connections, as defined in subsection 4, below, shall link the proposed development and the station or the transit stop.
 - b. The proposed development contains commercial or residential uses other than those prohibited in this subsection. The town finds and determines that certain land uses are not supportive of public transportation in that they tend to not generate transit ridership, and require access primarily by automobile. For purposes of this subsection the following land uses shall not be considered in determining compliance with this subsection: Warehousing (LBCS Function 3600 and Structure 2700), Mini-warehouses (LBCS Structure 2710), Nurseries (LBCS Function 9140 and Structure 8400), Fast food with drive-through (LBCS Activity 2310), Car Sales (new or existing) (LBCS Function 2110-2115), Gas Stations (LBCS Function 2116), Furniture Stores (LBCS Function 2121), or Lumber Yards/Building Materials (LBCS Function 2126). The foregoing land uses shall be defined in accordance with the most recent edition of the Institute of Transportation Engineers, Trip Generation, or the American Planning Association, Land-Based Classification Standards.
4. The area within the proposed development and the development within 1/2 mile of the perimeter of the proposed development has a balance of jobs and housing, as defined in rows "a" through "h" of table 1, and the residential and non-residential development is linked by a continuous system of sidewalks or is located within the same building. This factor shall take into consideration the non-residential and residential development within the proposed development. Sidewalks and trails shall be considered "continuous" if they are interrupted only by street intersections, but shall not be considered "continuous" if interrupted by natural or man-made barriers to pedestrian movement or by a street consisting of more than two lanes of traffic. If the applicant elects to use this option, the percentage reduction shall be computed as set forth in column (C), below, based on the percentage of square feet allocated to dwelling units and to nonresidential uses.

Table 1

	(A) % Residential	(B) % Non-Residential	(C) % Trips Reduced
a.	86-100%	0-14%	not applicable
b.	76-85%	15-24%	7.5%
c.	66-75%	25-34%	15%
d.	56-65%	35-44%	22.5%
e.	46-55%	45-54%	30%
f.	36-45%	55-64%	22.5%
g.	26-35%	65-74%	15%
h.	16-25%	75-84%	7.5%
i.	0-15%	85-100%	not applicable

[References: R. Ewing, *Pedestrian and Transit-Friendly Design* (March 1996), at 8-9; Cervero & Kockelman, "Travel Demand and the 3Ds: Density, Diversity, and Design, *Transportation Resource-D*, Vol. 2, No. 3 (1997); Moudon & Hess, et al., *Effects Of Site Design On Pedestrian Travel In Mixed-Use, Medium-Density Environments* (May 1997, Report No. WA-RD 432.1); *Pedestrian Facilities Guidebook: Incorporating Pedestrians Into Washington's Transportation System* (September 1997); 1000 Friends of Oregon, *Making Land Use Transportation Air Quality Connections, The Pedestrian Environment*, Vol. 4A (Dec. 1993)(at www.bts.gov/ntl/docs/tped.html); Crane, "Cars and Drivers in the New Suburbs: Linking Access to Travel in Neotraditional Planning," 62 *APA Journal* 51 (Winter 1996); Cervero, "Land-Use Mixing and Suburban Mobility," *Transportation Quarterly*; Colorado/Wyoming Section Technical Committee, "Trip Generation for Mixed Use Developments," *ITE Journal* 57, 2 (1987): 27-32); American Society of Civil Engineers, *Traditional Neighborhood Development-Will the Traffic Work?* (ASCE 1990); Bookout, "Neotraditional Town Planning: Cars, Pedestrians & Transit," *Urban Land* (Feb. 1992), at 10, 15); Friedman, Gordon & Peers, "Effect of Neotraditional Neighborhood Design on Travel Characteristics," *Transportation Research Record* 1466: 63-70 (1993); Holtzclaw, *Explaining Density and Transit Impacts on Land Use* (Presented by NRDC and Sierra Club to the State of California Energy Resources Conservation and Development Commission, April 19, 1990); Kitamura, Ryuichi, Mokhtarian & Laidet, *A Micro-Analysis of Land Use and Travel in Five Neighborhoods in the San Francisco Bay Area* (Institute of Transportation Studies, University of California at Davis, Nov. 1994)].

18.5.3.2 Law Enforcement

For purposes of determining compliance with the level of service standard for law enforcement, an inventory of the number of LESU's shall be maintained by the Planning Director.

The Planning Director shall forward the application to the Police Chief of the town for his review and comments. The Planning Director shall consider the comments and recommendations of the Police Chief, but shall retain ultimate authority to determine whether LESU's are adequate for the purposes of this ordinance.

18.5.3.3 Fire Protection

For purposes of determining compliance with the level of service standard for fire protection, the existing ISO rating for the Town of Davidson and the ETJ shall be maintained by the Planning Director.

The Planning Director shall forward the application to the Fire Chief of the town for his review and comments. The Planning Director shall consider the comments and recommendations of the Fire Chief, but shall retain ultimate authority to determine whether the ISO rating is adequate for the purposes of this ordinance.

18.5.3.4 Community Parks

For purposes of determining compliance with the level of service standard for community parks, reference shall be made to the Parks and Greenways inventory maintained by the Planning Director.

The distance of a proposed development from a community park and/or the amount of land in community parks shall not be considered for purposes of determining compliance with the adopted level of service standard.

The Planning Director shall forward the application to the Parks and Recreation Director of the town for his review and comments. The Planning Director shall consider the comments and recommendations of the Parks and Recreation Director, but shall retain ultimate authority to determine whether community parks are adequate for purposes of this ordinance.

18.5.3.5 Greenways

For purposes of determining compliance with the level of service standard for greenways, reference shall be made to the Parks and Greenways Inventory maintained by the Planning Director.

The distance of a proposed development from a greenway and/or the amount of land in greenways shall not be considered for purposes of determining compliance with the adopted level of service standard.

The Planning Director shall forward the application to the Parks and Recreation Director of the town for his review and comments. The Planning Director shall consider the comments and recommendations of the Parks and Recreation Director, but shall retain ultimate authority to determine whether greenways are ade-

quate for purposes of this ordinance.

18.5.3.6 Affordable Housing

For purposes of determining compliance with the level of service standard for affordable housing, an inventory of the number of dwelling units and affordable dwelling units shall be maintained by the Planning Director.

For purposes of computing the existing number of affordable dwelling units, the applicable rental or mortgage requirements for existing dwelling units may be considered, but deed restrictions or other encumbrances are not required.

18.5.4 Determination

After completion of the preliminary finding, the Planning Director shall make a separate written determination that:

- A. The application shall be approved because public facilities are available at the adopted level of service; or
- B. The application shall be denied because public facilities are not available at the adopted level of service; or
- C. The application shall be approved as to the portion of the development for which public facilities are available and adequate and shall be approved subject to the deferral of the remainder of the development until all public facilities are available and adequate if public facilities in the impact area are not adequate to meet the adopted level of service for the entire proposed development, consistent with the requirements of this ordinance.
- D. The application shall be approved because the applicant has made an agreement with the Board of Commissioners to construct or secure funding for the necessary facilities, consistent with the requirements of Section 18.5.6 hereto.

A determination of adequacy of public facilities shall not affect the need for the applicant to meet all other requirements as set forth in this ordinance or any other ordinance adopted by the town pursuant to Article 19 of Chapter 160a, NCGS.

18.5.5 Effect Of Determination

A determination of adequacy of public facilities for an application shall remain valid until the earlier of:

- A. The expiration of the application; or
- B. If no expiration period is provided for in the approval of the application, the determination shall expire upon expiration of the preliminary plat as described in Section 7.10 of this ordinance.

18.5.6 Advancement Of Facilities

If the Planning Director's preliminary finding states that the available capacity of a public facility is not adequate for the planned development, the Board of Commissioners may permit the applicant to advance the public facilities which are deficient, subject to the provisions below.

- A. No advancement of public facilities needed to avoid a deterioration in the adopted levels of service shall be accepted by the Board of Commissioners unless:
 - 1. The proposed public facility is a planned capital improvement or a non-funded capital improvement;
 - 2. Appropriate conditions are included to ensure that the applicant will obtain any necessary approvals for construction of the public facilities from any agency with jurisdiction thereof prior to or concurrent with the issuance of a final subdivision plat or other subsequent development proposal, or a building permit;
 - 3. The applicant furnishes a bond or other financial assurance sufficient to complete the public facility.
- B. The commitment to construct the public facility shall be included as a condition of the determination and shall contain, at a minimum, the following:
 - 1. Either a finding that the public facility is included as a planned capital improvement or as a non-funded capital improvement within the capital improvements program or a resolution by the Board of Commissioners to add the public facility to the capital improvements program.
 - 2. An estimate of the total financial resources needed to construct the proposed public facility.

3. A schedule for commencement and completion of construction of the public facility with specific target dates for multi-phase or large-scale projects.
 4. A statement that the public facility is consistent with the Davidson Planning Ordinance.
 5. At the option of the Board of Commissioners and only if the public facility proffered by the applicant will provide capacity exceeding the demand generated by the proposed development, reimbursement to the applicant for the pro rata cost of the excess capacity.
- C. The construction or funding of only a portion of a public facility needed to meet the adopted level of service may be approved by the Board of Commissioners only where:
1. The portion of the public facility will be able to provide the capacity, along with any existing capital improvement needed to meet the adopted level of service, and will be fully useable and operational due to the characteristics of the facility; or
 2. The construction or funding of the balance of the public facility that is needed to meet the adopted level of service will be accomplished from other sources.
 3. To the extent that the public facility exceeds the capacity required for the application, the remainder of the excess capacity may be reserved for the project if it has master plan approval. This provision will expire two years after preliminary plat approval or at the end of a time period determined by the Board of Commissioners, whichever is greater.

18.5.7 Withdrawal Of Application

The applicant may withdraw the application at any time by submitting a written request to the Planning Director. Withdrawal may result in the forfeiture of all administrative fees paid by the applicant for the processing of the application.

18.5.8 Appeal And Variances

The applicant may appeal a determination by the Planning Director to the Board of Adjustment pursuant to NCGS § 160A-388(b).

The Board of Adjustment may grant a variance from any of the provisions of this ordinance pursuant to NCGS § 160A-388(d).

18.6. Methodology And Criteria For Determining Availability And Adequacy Of Public Facilities

18.6.1 Level Of Service ("LOS") Standards (Adequacy Of Public Facilities)

Compliance with level of service ("LOS") standards shall be measured for each public facility set forth in column (A) of table 2 that is applicable to the development proposal as set forth in column (B) of table 2. The levels of service for each public facility are set forth in column (C) of table 2 below. The LOS for each application for development approval shall be measured within the impact area set forth in column (D) of table 2, below, for each corresponding facility in column (A). Column (E) of table 2 indicates whether planned capacity may be included in determining whether the improvements are available.

18.6.2 Adequacy Of Public Facilities

Each public facility within the impact area shall be deemed to be adequate if the demand generated by the proposed development is less than the available capacity. Available capacity is calculated as follows:

Add: capacity, planned capacity, and, if relevant to the application, reserved capacity; then subtract utilized capacity, committed capacity, and advanced capacity.

18.6.3 Public Facilities Affecting Areas Outside Of The Town And ETJ

Availability and adequacy of public facilities shall be determined only with respect to public facilities located within the incorporated areas and extra territorial jurisdictions of the town. If part of the applicable impact area lies in an adjacent municipality or its extraterritorial jurisdiction or in Iredell or Cabarrus County, absent an intergovernmental agreement with the County or municipality, availability and adequacy shall be determined only with respect to public facilities located within the town's incorporated areas and extraterritorial jurisdiction.

If the Board of Commissioners has entered into an intergovernmental agreement with an adjacent county or with a municipality to evaluate public facilities in such areas, an applicant will be subject to the evaluation of the level of service standard for the facility as adopted by the adjacent county or municipality. As part of the prelim-

inary finding, the Planning Director shall require that the adjacent county or municipality certify that the proposed development will not cause a reduction in its level of service standards.

18.7 Capital Improvements Program ("CIP")

18.7.1 Purpose

The capital improvements program (the "CIP") is the mechanism by which the Town of Davidson provides new public facilities, and expansion of the capacity of public facilities, which are needed to accommodate existing and anticipated future population and employment. Through the CIP, the town intends to use all reasonable means to provide the public facilities and services needed to accommodate new residential growth and development, consistent with the availability of revenue sources, binding contributions for capital improvements provided by state or federal sources or applicants, and physical, environmental, or topographical constraints on the expansion of the capacity of public facilities. The purpose of the capital improvements program is to evaluate the need for public facilities subject to this ordinance, to estimate the cost of improvements for which the town has fiscal responsibility, to analyze the fiscal capability of the town to finance and construct improvements, to adopt financial policies to guide the funding of improvements, and to schedule the funding and construction of improvements in a manner necessary to ensure that capital improvements are provided when required based on needs identified by the town pursuant to the comprehensive plan and/or other town planning policies.

18.7.2 Applicability To Permitting Provisions Of This Ordinance

It is the intent of this ordinance that no development proposal shall be denied, nor shall any condition be attached to a development proposal pursuant to this ordinance, unless and until a CIP has been adopted by the Board of Commissioners as provided herein.

18.7.3 Capital Improvements Analysis Requirements

The CIP shall be based upon the following analyses:

- A. Current local practices that guide the timing and location of construction, extension or increases in capacity of each public facility.
- B. The general fiscal implications of the existing deficiencies and future needs for each type of public facility. This analysis shall be based on the needed improvements, as identified by applying the level of service within each impact area, and shall address the relative priority of need among facility types;
- C. The costs of needed capital improvements for mitigation of existing deficiencies, replacement and new growth needs;
- D. The basis of cost estimates;
- E. An assessment of the town's ability to finance capital improvements based upon anticipated population and revenues including:
 - 1. Forecasting of revenues and expenditures for five years;
 - 2. Projections of debt service obligations for currently outstanding bond issues or loans;
 - 3. Projection of ad valorem tax base, assessment ratio and ad valorem tax rate;
 - 4. Projections of other tax bases and other revenue sources such as impact and user fees;
 - 5. Projection of operating cost considerations; and
 - 6. Projection of debt capacity.

18.7.4 Requirements For Capital Improvements Implementation

The CIP shall contain:

- A. The five-year schedule of year-by-year capital improvements that the town has accepted to reduce existing deficiencies, remain abreast of replacements, and to meet future demand.
- B. Project description and potential location.
- C. A list of projected costs and revenue sources by type of public facility for the five-year period.

18.7.5 Requirements For Monitoring And Evaluation

The CIP shall be reviewed on an annual basis, as follows:

- A. The Town Manager shall prepare a report describing the following:

1. The available capacity of public facilities, by impact area.
 2. Anticipated increases in dwelling units and non-residential development within each impact area based on population projections set forth in the Davidson Planning ordinance or any subsequently adopted comprehensive plan.
 3. The need for any further public facilities, including the capacity of said public facilities, resulting from changes in population increase, employment growth, or other relevant factors and the population projections.
 4. The projected financing for any additional capacity resulting from the factors set forth in subsections (1) through (3), above.
- B. The Board of Commissioners shall consider the report prepared by the Town Manager and shall consider any appropriate amendments to the capital improvements program.

18.8 Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The town Board of Commissioners declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.

18.8 Table 2

(A) Facility	(B) Applicability	(C) Level of Service	(D) Impact Area	(E) Year Planned Capacity Will Be Available
Intersections-Tier 1	All Applications	LOS "D"	Town Limits and ETJ	First (1st) year of CIP
Intersections-Tier 2	All Applications	LOS "C"	Town Limits and ETJ	First (1st) year of CIP
Intersections-Tier 3	All Applications	LOS "B"	Town Limits and ETJ	First (1st) year of CIP
Law Enforcement	All Applications	1 LESUs per 400 Dwelling Units.	Town Limits	1st year of CIP
Fire Protection	All Applications	ISO rating of 6 ISO rating of 9	Town Limits ETJ	1st year of CIP
Community Parks	All Applications	1 Community Park per 500 Dwelling Units.	Town Limits and ETJ	3rd year of CIP
Greenways	All Applications	1 mile per 500 Dwelling Units.	Town Limits and ETJ	3rd year of CIP
Affordable Housing	All Applications for at least 3 residential lots, 3 Dwelling Units, or which comprise at least three (3) acres	12.5% (one in eight) Dwelling Units within the Town	Town Limits and ETJ	3rd year of CIP

This is the end of Section 18

7-28

DRAFT

25
7-29

DRAFT ATTACHMENT 2

**Affordable Housing Task Force
Final Proposal**

1. **Affirmation of the Affordable Housing Goals.**
 - a. At any point in time, a minimum of 12½% of the housing units in Davidson shall be affordable.
 - b. In the case of newly constructed housing, the Town has a goal of providing the following distribution of that 12½% affordable housing.
 - i. 30% to very low income households, those with less than 50% of the area's median income (AMI).
 - ii. 50%–70% to low income households, those with between 50% and 80% of the AMI.
 - iii. 0%–20% to moderate income households, those with between 80% and 120% of the AMI.
 - c. The Town is willing to assist in the provision of affordable housing in order to secure the benefits from a diverse housing stock.
 - d. The owners/occupants of such affordable housing will also participate in the provision of the affordable housing, although the means of that participation will vary with the method of its provision. For example, the property owner may accept less-than-market rate property appreciation or a tenant may accept fewer amenities.
 - e. The Town, affordable housing nonprofits, and developers will employ a variety of tools to meet the affordability goals, to match the characteristics of each project, to fulfill the town's housing needs, to maintain the Town's investment, and to eliminate substandard housing.
 - f. Affordable housing will be dispersed throughout the Town.
 - g. Affordable housing will be designed to be complementary to the neighborhood.
 - h. The affordable housing program will acknowledge the value of homeownership, accommodate the need for rental housing, and direct development in order to maintain stable neighborhoods.
2. **The following statements define an “approved affordable housing nonprofit”.**
 - a. “An affordable housing nonprofit” is either a 501C(3) nonprofit or a governmental agency with a primary purpose to assist people in securing affordable housing.
 - b. To become “approved”, the affordable housing nonprofit must present to the Town Board for its approval a plan describing how it will participate in meeting the goals listed in Section 1.
 - c. To maintain its status as “approved”, the affordable housing nonprofit must report to the Town Board annually on its progress in meeting that plan as well as its progress in fulfilling the obligations it has undertaken under agreement with developers under Section 5.
3. **The following affordable housing obligations apply to all new development proposals that include some residential component.**
 - a. Developers must provide 12½% of the finished residential units as affordable units as described in either subsection (b) or (c) below.

- b. Developers building 7 or fewer units must either build one affordable unit or pay a fee to the Town of Davidson based upon the formula below. The Town of Davidson must use the mitigation payments solely for the acquisition of land for, or the construction of, affordable housing.

Fee = (X/8)C

where X = the number of units

C = the average cost of materials for a house constructed by *Our Towns Habitat for Humanity*.

- c. Developers building 8 units or more must include with the materials submitted to the Planning Board and to the Town Board for the approval of those Boards either:
 - i. An affordable housing plan with the details described in Section 4.
 - ii. A letter signed by both the developer and the executive director of an approved affordable housing nonprofit with the details described in Section 5.

As with any component of a development proposal, the Planning Director will provide an assessment of these materials to the Planning Board and to the Town Board.

- d. Unless otherwise approved by the Town Board, the following household sizes and unit sizes for affordable housing are defined:

Type	Bathrooms	Minimum Square Footage		
		People Attached	Units Detached	
Efficiency	1	1	350	-
1 Bedroom	1	1-2	550	900
2 Bedroom	1	2-4	750	1,000
3 Bedroom	2	4-6	950	1,100
4 Bedroom	2	6-8	1,050	1,200

- e. The Town may assess the civil penalties prescribed by the ordinance for violations of Sections 3, 4, and 5.

4. Components required for an affordable housing plan.

- a. The plan will describe how 12½% of the finished units will be affordable in a manner that conforms to the Town's goals outlined in Section 1. The table below summarizes some of the possibilities for meeting the Town's goal of the distribution of new affordable housing.

Number of New Affordable Units:	The number of units to be affordable by households with income (I):		
	I < 50% AMI	50% AMI ≤ I < 80% AMI	80% AMI ≤ I < 120% AMI
1	0 - 1	0 - 1	0
2	0 - 2	0 - 2	0
3	1	2	0
4	1 - 2	2 - 3	0
5	1 - 2	2 - 4	0 - 1
6	2	3 - 4	0 - 1
7	2 - 3	3 - 5	0 - 1
8	2 - 3	4 - 6	0 - 1
9	3	5 - 6	0 - 1
10	3 - 4	5 - 7	0 - 2
11	3 - 4	5 - 8	0 - 2

27 7-31

D E A U

12	4	6-8	0-2
13	4-5	6-9	0-2
14	4-5	7-10	0-2
15	5	7-10	0-3
And so on			

b. Further, the plan must describe:

- i. How the affordable housing will be designed to be complementary to the neighborhood.
- ii. How the phasing of the affordable units will be proportional to the number of residential units in each preliminary plat except that the certificates of occupancy (CO) for the last 10% of the market rate units in the project will be not be issued until the COs have been issued for all of the affordable units.
- iii. The mechanism(s) the developer will employ to ensure that the units remain affordable to the targeted households for a minimum of 30 years.
- iv. The mechanism(s) the developer will employ to ensure that the designated units are and remain occupied by the targeted households for a minimum of 30 years; this may include a separate written agreement with an approved affordable housing nonprofit.
- v. The mechanism(s) by which the Town Planning Staff can monitor and verify the provisions of the affordable housing plan.

5. **Components required for a letter signed by both the developer and the executive director of an approved affordable housing nonprofit.**

- a. The nonprofit agrees to assume the obligations of the developer to provide affordable housing under this ordinance.
- b. The details of the financial agreement between the developer and the nonprofit so that the Town can be assured that the developer will compensate the nonprofit adequately for meeting those obligations including but not limited to property acquisition, unit construction, marketing expenses, and homeowner education.
- c. The letter will include the acknowledgement that, in addition to any other legal consequences, upon the determination that the developer has failed to fulfill the agreement with the nonprofit the approval for the development and any certificates of occupancy for unoccupied units are automatically revoked.

7-32