



PUBLIC INPUT SESSION (PIS) REPORT – Targeted Conditional Zoning Tool

A virtual Public Input Session was held on **August 27, 2020** via the Zoom platform to solicit community feedback on the proposed Davidson Planning Ordinance (DPO) text amendments associated with the targeted conditional (TCZ) growth management tool. The meeting was noticed in a number of ways including: Planning Department website, monthly e-crier, social media, and announcement at the Board of Commissioners (BOC) meeting. Approximately 25 residents attended the virtual PIS. Those who attended were given several options to provide feedback/questions: email in advance, real-time chat function on Zoom, and real-time text messaging.

Planning staff provided a brief presentation based upon the Frequently Asked Questions (FAQs) received in recent weeks on the proposed text amendments. A moderated question and answer session followed. Staff read all emails received in advance of the PIS and answered questions as needed. After this, staff responded to the questions received via the chat and text options.

The PIS Report is divided into sections. The first section summarizes the presentation based upon the FAQs. The second portion highlights questions received via email and staff responses. This followed by questions/comments received via the chat and text options. Next, emailed comments/questions are included in their entirety, with staff responses following in italics. Lastly, a brief summary of participants and questions/comments concludes the PIS Report.

All of the information referenced here (i.e. FAQs, PIS Report, etc.) including a recorded video can be found here: www.TownofDavidson.org/TextAmendments.

Feedback received at the second PIS on **September 15, 2020** is highlighted in orange text as shown here. Approximately 20 residents attended the second PIS which was noticed in a similar fashion as the first event. Of note, the town newsletter (delivered to every household in town and the ETJ) included information about the second PIS event and arrived in mailboxes several days prior.

The format for the second PIS mirrored the first PIS. However, staff did provide an update on new direction received from the Board of Commissioners (BOC) at the [September 8, 2020 work session](#). In brief, staff shall slow down the process and create a Planning Board subcommittee charged with exploring other growth management tools and reevaluating targeted conditional thresholds. Also, staff provided further details in the PIS presentation about the threshold options based upon existing development patterns presented to the BOC in Fall 2019 and Summer 2020.

A. STAFF PRESENTATION: FAQs

1. What is Targeted Conditional Zoning (TCZ)?

Targeted Conditional Zoning is a proposed growth management tool whereby development proposals in certain planning areas (zoning districts) would require approval by the Board of Commissioners (BOC) if they reach specific thresholds based upon number of dwelling units and/or acreage. This proposal builds upon the existing Conditional Planning Area (CPA) process, which also requires board approval.

2. In which planning areas would Targeted Conditional Zoning apply?

As currently proposed, Targeted Conditional Zoning would apply in the Village Infill (VIPA), Neighborhood Edge (NEPA), Rural (RPA), and Lakeshore (LAK) Planning Areas. These planning areas were selected by the Board of Commissioners as being most susceptible to development pressure.

3. What are the proposed thresholds that would trigger conditional zoning?

Development proposals that reach specific thresholds described below would require conditional approval from the Board of Commissioners (BOC).

PLANNING AREA	PROPOSED THRESHOLDS
Village Infill (VIPA)	8 dwelling units (d/u)
Lakeshore (LAK)	8 d/u
Neighborhood Edge (NEPA)	36 d/u OR 35 acres
Rural (RPA)	36 d/u OR 15 acres

4. How were the proposed thresholds determined?

Staff presented a menu of threshold options at the November 2019 BOC work session based upon an analysis of historic development patterns (dwelling unit count and parcel acreages). Staff reviewed high, medium, and low thresholds for targeted conditional thresholds based upon existing development patterns, as well as hybrid options combining dwelling units and acreage into a single trigger. The BOC provided direction that favored using the lower thresholds. At the July 2020 BOC work session, commissioners provided new feedback to staff which considered a more conservative approach and also added Lakeshore Planning Area to the mix.

5. What’s the reasoning behind this?

Davidson is not immune to growth pressures, which seem to have amplified in recent years. Davidson has had success in determining what type of development should go where; Davidson has had less 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. Also, the [Davidson Comprehensive Plan \(2020\)](#) recommends exploring targeted conditional zoning as a growth management tool (Acton 2.1.3). The [Board of Commissioners’ Strategic Plan](#) (adopted Aug. 25, 2020) recommends implementing targeted conditional zoning (Pgs. 8, 14).

6. What about existing zoning and/or plans?

Existing Davidson Planning Ordinance (DPO) requirements for respective planning areas would remain unchanged. The intention is not to make everything in town de facto conditional. The town still has a comprehensive DPO with rigorous development standards. The underlying zoning would still be the baseline for any development once a threshold is triggered.

7. What conditions might be imposed on my land should I elect to develop?

Each development proposal that reaches or exceeds the established thresholds would be considered individually by the BOC, who would determine the conditions for each project.

8. Could a development proposal be denied under Targeted Conditional Zoning?

Yes. There could be a number of reasons why the BOC would deny a development proposal including proposed intensity, size, infrastructure capacity, ability to serve with utilities or public

safety providers, etc. All conditional development proposal approvals are at the discretion of the BOC.

9. Do other communities in North Carolina do this?

Other communities use similar processes specific to certain types of development. For instance, Asheville uses conditional approvals for large commercial and residential developments above 50 d/u; Chapel Hill uses conditional use permits to allow for additional density and the provision of affordable housing; Cornelius uses conditional for specific uses (micro-breweries/commercial) and residential developments (though they are considering relaxing these standards); Mooresville uses conditional for specific uses.

10. What are the benefits of Targeted Conditional Zoning?

While this is not an all-inclusive list, some of the benefits of TCZ are:

- a) Would better control the timing of development, inserting additional/intentional steps*
- b) Provides opportunities to achieve specific town goals such as affordable housing*
- c) Allows additional opportunities for public input*
- d) Provides the Board of Commissioners a direct say in the type and scale of development they would like to see in specific locations*
- e) Provides additional oversight for contextually sensitive development in the most pressured neighborhoods (VIPA) and in the most fragile lands (RPA)*
- f) Could allow additional flexibility for creative/innovative development*

11. What are the drawbacks of Targeted Conditional Zoning?

While this is not an all-inclusive list, some of the drawbacks of TCZ are:

- a) Could reduce the value of larger parcels (i.e. harder to develop); significant burden on these property owners*
- b) Could lead to uneven development pattern (if other planning areas deemed “easier”)*
- c) Could result in the underutilization of land (i.e. not the highest and best use)*
- d) Reduces the predictability of the process for land owners, developers, citizens, commissioners, planners*
- e) Would significantly lengthen the approval process*
- f) Would require additional time of the Board; specifically meeting time allocated to conditional discussion.*
- g) Would require additional time of the Planning Board; recommendation would be required beyond their typical “review and comment” per the DPO.*
- h) Could lead to a politicized process*
- i) Could negate previous community-wide planning efforts/initiatives/plans (i.e. create de facto conditional zoning in affected planning areas)*

12. What’s the process for the text amendments to be approved?

The Planning Board and Board of Commissioners have received periodic updates on the topic in recent months. As with all text amendments, a public hearing will be required along with a formal recommendation from the Planning Board.

- Public Input Session: Thursday, August 27 + September 15*
- BOC Public Hearing: TBD*
- Planning Board Recommendation: TBD*
- BOC Action: TBD*

13. Where can I read the actual proposed ordinance changes?

The draft text amendments and other pertinent information can be found on the [Maps & Text Amendments](#) page of the Planning Department's website. Once there, click on "Text Amendments." Or, click directly on this link: [Proposed DPO Changes to Sections 2 + 4. 14.](#)

14. How can I share my feedback on Targeted Conditional Zoning?

There are several ways to provide feedback.

- *Public Input Session: August 27 and September 15*
- *Email: You may also submit comments via email to planning@townofdavidson.org (please include "Targeted Conditional" in the subject line) or to the Board of Commissioners board@townofdavidson.org.*
- *Public Input Session Report: Information gathered at the Public Input Session will be shared with the Board of Commissioners.*

B. QUESTIONS RECEIVED VIA EMAIL

Listed below are questions culled from residents' emails sent before and after the PIS. Staff responses are in italics.

- 1. What are the conditions that projects will be evaluated on for approval under the proposed targeted conditional zoning beyond the currently approved planning ordinance requirements?** *It's difficult to predict what conditions might be deemed appropriate by the BOC at this time or in the future. However, each potential development proposal would be looked at individually and evaluated on its own merit. The intention is to use the existing DPO as a baseline.*
- 2. How many staff members will be needed to review and process the increased case load? Is the BOC considering the increased cost to review all of the plans?** *This was discussed early on in the process as a potential impact. If TCZ moves forward, this would need further evaluation. There is the potential that TCZ could have the reverse effect (i.e. disincentivizing development).*
- 3. What alternatives have been considered for meeting (growth management) town goals?** *A number of growth management tools are recommended in the Davidson Comprehensive Plan and some have been incorporated into the BOC Strategic Plan. These include the purchase of development rights (PDRs), voluntary agricultural districts, the growth management tiers framework, annexation/utility extension criteria, and the conservation and growth framework.*
- 4. Was a single letter sent to landowners in the ETJ informing them of TCZ? Was this proposal mentioned in the town newsletter?** *Planning staff included information in the monthly departmental e-crier and at regular updates with the BOC and Planning Board. A newsletter article was planned for March 2020, but the newsletter was not released due to the pandemic. There is information about TCZ in the upcoming September newsletter.*
- 5. If the BOC adopts TCZ for some definition of larger acreages, what plan replaces the Rural Area Plan?** *The Rural Area Plan is a policy document that informed changes in the Davidson Planning Ordinance (DPO). The RAP is not going away and baseline standards incorporated into the DPO from recommendations in the plan would still be applicable unless modified during the Conditional Master Plan process by the BOC.*
- 6. Has there been community involvement in a specific (TCZ) plan?** *Planning staff has tried to share information through a number of avenues (see the beginning of this report for a*

summary). The pandemic makes information-sharing challenging. However, we welcome all feedback.

7. **Can larger landholdings be treated differently than smaller landholdings in Neighborhood Edge (NEPA) and other planning areas?** All properties are subject to the same baseline DPO standards, and the setting of thresholds based on development size or acreage is legal. Cornelius uses this approach regularly.
8. **The BOC was elected because many perceived the previous BOC's decisions as capricious at best and corrupt at worst. Doesn't TCZ codify this practice, rather than prevent it?** As mentioned above, if TCZ is approved, each proposed development proposal would be evaluated individually on its own merit. It's impossible to predict what conditions this or any future BOC might deem necessary.
9. **If the BOC would like to promote developments of a certain type (i.e. affordable housing), they should find ways to incent these types of development. For example, fast-track all developments that include affordable housing or modify the DPO to require affordable housing construction in all planning areas?** These are great ideas that have been discussed in the past. The DPO provides some incentive for built AH units. It's difficult to fast-track projects given department capacity and simultaneous review with Mecklenburg County. The previous AH payment-in-lieu amount (PIL) was higher years ago but was modified due to a legal challenge. The lower PIL amount has proved a more attractive avenue for developers to satisfy their affordable housing obligation, leading to fewer units being constructed by private developers.
10. **Is this the right tool to meet the town's goals?** I think that is yet-to-be determined. It's a tool that could achieve some of the town's goals. The town will need to weigh the pros and cons accordingly.
11. **Are the proposed thresholds appropriate?** Planning staff attempted to provide high, medium, and low thresholds based upon compiled data (development patterns over a period of time). After review, the BOC directed staff to use thresholds lower than the data with the belief that this could be dialed back if it's not working as originally intended.
12. **Why now?** This is a process that started two years ago with the BOC Strategic Plan that directed staff to explore growth management tools. This topic has been discussed with the BOC a number of times since July 2019.
13. **Why is there little to no support for this?** It's good to have support for changes to the DPO. Staff is looking for feedback from all perspectives.
14. **Not sure this "downzoning" has legal standing?** As proposed, these are text amendments to the planning ordinance, not a rezoning. However, if passed, the new DPO would include options for development—one of which would be a conditional rezoning based upon established thresholds.

****Questions shown in orange text below were received prior to the second PIS in September. ****

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15. **What is the town's vision of what Davidson should look like moving forward? Is it more housing (as in additional subdivisions?) Is it more commercial infrastructure?** The town's vision is embedded in the Davidson Comprehensive Plan. Among the policy recommendations in the Comprehensive Plan, there are key influencers: growth pressure, downtown Davidson, rural character, extensive tree canopy, a commitment to fiscal health, good design, and sustainability.

Specific goals of the Comp Plan include intentional growth management (balancing growth with community character), a network of natural and open spaces, a preserved historic fabric, and contextually sensitive infill and redevelopment. All development decisions should be made with these considerations in mind.

16. Is this legal? *Conditional zoning based upon thresholds is legal. Cornelius has used conditional thresholds for quite some time to manage growth (i.e. anything over 4 units). Cornelius is contemplating relaxing that standard to 25 due to pushback from the development community. Asheville uses it at 50 dwelling units.*

17. Have statutory parameters around conditional rezoning changed in recent years? *The North Carolina General Assembly (NCGS) recently adopted 160D which consolidates development regulations. This legislation also moves away from the quasi-judicial conditional use permit and more to the legislative conditional rezoning. This really does not have any bearing on the proposed targeted conditional text amendments.*

18. Would development be approved in areas impacted by targeted conditional if it meets the baseline ordinance? *Not exactly. If a proposed development triggers a threshold established by the text amendments, that shifts it to the legislative conditional process. Any conditional approval is at the discretion of the BOC. If a proposed development remains under the established threshold, it could be approved administratively by staff (assuming it meets all other DPO requirements). This is the crux of the “under-utilization of land” con shared with the BOC and PB. If approved, the targeted conditional text amendments could incent landowners to develop less-efficiently to stay under an established threshold.*

19. Does NC Law require that conditions be agreed upon by the applicant and the landowner. *Yes. The applicant must consent to any proposed conditions.*

20. Based on the two stated assumptions above, the development approval process in the TCZ areas would generally move forward in one of three ways:

- **A project doesn't meet the conditional threshold but meets the base ordinance requirements and moves forward by-right; That's correct.**
- **A project meets the conditional threshold, triggering a conditional review, it meets the base ordinance requirements and is approved; Not necessarily.** *Any approval is at the discretion of the BOC. I've heard commissioners speak of targeted conditional requirements being an extra safeguard to ensure quality development. Approval would not be guaranteed.*
- **A project meets the conditional threshold, triggering a conditional review, it doesn't meet the base ordinance requirements so either it is denied approval OR the Town/ BOC/ property owner/ applicant work together to agree upon additional conditions that must be met in order for the project to be approved.** *Generally, this would be true. In some other jurisdictions, conditional is a blank slate. The BOC did not want that to be the case here as our DPO has established rigorous requirements. However, the conditional process opens up everything for negotiation. Perhaps stronger conditions would be included (i.e. affordable housing built on-site), or perhaps established DPO standards could be relaxed (i.e. mix of building type requirement). The town and the applicant would have to consent to all proposed conditions for the proposal to be approved.*

- 21. Could a project in areas impacted by targeted conditional be denied if it meets the existing baseline ordinance?** *Approval is at the discretion of the BOC. The BOC could choose to deny a proposal for any number of reasons (such as infrastructure or capacity to serve) –even if the base zoning requirements are met.*
- 22. How does targeted conditional as proposed help implement the Rural Area Plan? How does targeted conditional as proposed help implement the Comp Plan?** *The existing DPO is informed by approved plans. One might argue that targeted conditional would be an additional check to ensure compliance with the vision of the Rural Area Plan. The Comp Plan recommended exploring/implementing several growth-management tools. TCZ was just one of the tools for exploration.*
- 23. What other growth management tools were considered?** *The BOC charged the Planning Board subcommittee to explore other growth management tools. Some of these were recommendations from the Comp Plan: growth tiers framework, purchase of development rights, utility and annexation criteria).*
- 24. How do you reconcile affordable housing with restricted supply?** *The town is always has been a leader on the inclusionary zoning (affordable housing) front. The payment-in-lieu option has been challenging as it provides a more attractive option for developers. The town is always looking for ways to improve having recently formalized an Affordable Housing Advisory Board and creating a Housing and Equity Manager position.*
- 25. What is the composition of the subcommittee?** *As used in previous ordinance changes (watershed, trees), it will be composed of members of the Planning Board. This subcommittee will provide updates to the BOC in the coming months.*
- 26. What is the need for targeted conditional? Why would one look at each proposal separately?** *The BOC has expressed a desire to have more control over the timing of development and what type of development that is approved.*
- 27. Are lack of affordable housing, diminished growth potential, and arbitrary density rules goals of the BOC?** *BOC goals are outlined in their [Strategic Plan](#) (approved August 2020). They include a well-planned and livable community, historic preservation, and connecting people and places.*
- 28. Which commissioners attended the August 27th PIS?** *The town clerk confirmed that Commissioners Campbell, Fort, and Rierson-Michael watched it live. Others may have watched it later.*
- 29. What was the BOC response when presented with negative feedback from the first PIS? What changes have been discussed?** *Some expressed concern re: the potential impacts of the Rural Area Plan. Others thought perhaps the tool should only be used in-town. Others felt targeted conditional should be part of the solution. The BOC directed staff to slow down the process and create a Planning Board subcommittee charged with exploring other growth management options and reevaluating targeted conditional.*
- 30. What are the conditions that would trigger targeted conditional?** *There are various thresholds based upon hybrid dwelling unit/acreages metrics that would shift a proposal from the administrative (by-right) process to the legislative (conditional) process. One cannot predict what potential conditions might be included in a proposal; perhaps none.*

- 31. What consistency can possibly be achieved when proposals are reviewed by elected officials who have their own agendas? Staff cannot speak to individual commissioner agendas, but acknowledge that consistency and predictability could be lost under targeted conditional.**
- 32. Which North Carolina statutes or legal precedents provide that conditional zoning is legal when coupled with thresholds that override an adopted plan (Rural Area Plan) and throw most properties into non-petitioned conditional zoning? There's a difference between the adopted Rural Area Plan (visionary) and the Davidson Planning Ordinance (regulatory). A variety of recommendations from the RAP were incorporated into the DPO and are now binding. Any rezoning request would have to be petitioned. A property owner could still develop administratively (i.e. by-right) if proposal stayed below the thresholds. Cornelius and Asheville are examples of using this.**
- 33. What are the planned conditions... are they specified or wide open with no constraints? Could a project be turned down because of viewshed requirements? Any proposed conditions must be agreed to by the applicant and the BOC. Perhaps there would not be any additional conditions. Each project would be reviewed individually. Approval would be at the discretion of the BOC.**
- 34. What did Commissioner Fort mean when he said at the last BOC work session that targeted conditional would "only be used in emergency?" It might be best to reach out to Commissioner Fort directly. However, if one had to speculate, once could suggest that he believes the DPO is good and merely wants to ensure that the only the best development is approved in Davidson.**
- 35. Conditional Zoning is not the same as a Conditional Use Permit. Which is the BOC proposing? Neither. The targeted conditional growth management tool relates specifically to text amendments within planning areas (i.e. zoning districts). If a proposed development exceeds these established thresholds in that planning area, approval would shift from the administrative (by-right) to the legislative conditional process (rezoning).**
- 36. Does the BOC plan to treat large landowners differently than smaller landowners? That's not the intent. All parcels located within a planning area (zoning district) would be working under the same established thresholds.**
- 37. Why is the Rural Area Plan appropriate for smaller projects, but not larger? That's not the intent. The RAP outlined a vision for the entire rural area.**
- 38. Why were dwelling units and acreages used as thresholds? Why were outliers discarded? Dwelling units and acreages are the most commonly used site. It's also easily understood. These were presented as options to the BOC and they provided direction. It's not a perfect science, but outliers were discarded so as to not skew the data one way or the other. This is common practice in statistical analysis.**
- 39. Is there a bias against larger projects? What about Myers Park in Charlotte? What is the plan for larger parcels? That is not the intent. However, the town's vision of being a small, historic college town weighs heavily on decision-making. If enacted, larger parcels would be subject to the thresholds adopted by the BOC.**
- 40. If we wanted to develop our large property, how would the town manage growth? If a threshold is triggered, any development approval would be at the discretion of the BOC.**

C. QUESTIONS/COMMENTS RECEIVED DURING LIVE CHAT/TEXT

Below is a list of questions and comments provided during the moderated question and answer session. Staff responses are in italics.

- 1. (George Berger) How will the town work with the development community to focus their proposals to a particular area of the community (i.e. suitability of project for that location)?** *Working with developers and landowners regularly, our responsibility is to respect the interests of all stakeholders of all involved and apply the development standards specific to a parcel's Planning Area designation (i.e., zoning).*
- 2. (Nora Barger) At the recent BOC meeting, Commissioner Campbell stated that she felt that the thresholds were notional. Will these thresholds continue to be changed or developed?** *The thresholds have moved downward from numbers originally proposed based upon feedback from the BOC. There's a possibility the BOC could choose to adjust thresholds. Feedback from residents will help inform those decisions.*
- 3. (Kate Barger Weathers) Why did the BOC favor the lower thresholds and the more conservative approach?** *BOC opted for lower thresholds when given options, then lowered further to 8 dwelling units/acre as it's the number of units required for the affordable housing ordinance to apply. The BOC felt that the thresholds could be dialed back in the future.*
- 4. (Nora Barger) How does Targeted Conditional help the town control the timing of development? Provide an example of how the conditional process would work.** *The conditional process is a negotiation. Targeted conditional would require BOC approval based upon an established threshold. Anything below the threshold would not require BOC approval. If a proposal exceeds the established threshold, the BOC would determine approval based upon any number of factors (i.e. roadway infrastructure) and any conditions deemed appropriate (constructed affordable housing units, for example). This would be very similar to the town's current Conditional Planning Area (CPA) process, which can be unpredictable at times.*
- 5. (Jordan Hylton) How were thresholds specifically established? Who on the BOC set thresholds as proposed?** *Staff provided high, medium, and low threshold options. There was agreement among the BOC for the lower thresholds.*
- 6. (George Berger) How could Targeted Conditional control timing of development?** *Any conditional approval is at the discretion of the BOC. The BOC could impose a phasing component or deny it outright based upon infrastructure capacity, for example.*
- 7. (Nora Barger) Does the planning department have the adequate staff to support TCZ? If not, wouldn't that further lengthen the process?** *Right now, staff is managing two CPAs. Staffing demands could change in the future and merit evaluation.*
- 8. (George Berger) Troutman uses conditional zoning. It can be applied for by any applicant, but required for projects in a number of districts where additional conditions can be most valuable for a project to fit in a specific area.**
- 9. (Craig Lewis) What issues have specifically arisen with new development that we have not been able to keep up with town services.** *Staff is not aware of any police/fire capacity services, but the town hears regularly from citizens that our roadway infrastructure is overburdened.*

10. **(Craig Lewis)** There seems to be a misconception that traffic issues pre-Covid were the result of new development in Davidson. The data does not support this thesis. Our issues are with the well of development north of us that passes through Davidson. We should not shut down growth simply because of regional issues.
11. **(Craig Lewis)** The town just spent a lot of time, money and resources to develop a new comprehensive plan. Making each of these decisions on a conditional basis throws out that plan in favor of ad-hoc decision making. The comp plan designates the proposed areas in a manner that is already consistent with their zoning. **What other issues would be considered?** *The Growth Tiers Framework which identified primary and secondary growth areas and the timing associated with each would likely be considered.*
12. **(Craig Lewis)** These amendments amount to a massive downzoning for the specific parcels without guarantee of approval at the current by-right level. Conditional zoning is a completely legislative decision that is subject to the discretion of the BOC and they have no obligation to approve any rezoning, even if it is consistent with the comprehensive plan.
13. **(Catherine Gay)** Controlling the timing of development is an odd reason to institute this change as development is market-driven. Does the town have capacity issues for water and sewer? If not, why not use traditional zoning so land owners know what can/cannot be done with their land? *The town is not aware of any capacity issues with Charlotte Water.*
14. **(Craig Lewis)** Because this a “de facto” downzoning, will you mail notification to each effected property owner and advertise consistent with state law? *The town will abide by all NC general statutes for notification.*
15. **(Nora Barger)** Why aren’t the other growth management tools not being explored in tandem with TCZ to have the best tools available for comparison for effectiveness? *Those tools are being explored currently. TCZ is just further along as it started earlier.*
16. **(Kate Barger Weathers)** Newsletters need to be sent to residents and landowners. **Not all landowners in the ETJ reside in the area.** *Information about TCZ and the second Public Input Session is included in the forthcoming September newsletter. Per the town clerk, newsletters are shared on the town’s website, too.*
17. **(Jordan Hylton)** How do you assess what is on the “cusp” of development? **What metrics were used?** *Assessing these factors is not an exact science. That determination was based upon information about developments proposed, pressure felt, and comments/concerns from residents.*
18. **(Jordan Hylton)** How can you continue on the proposed schedule if the September newsletter does not provide much notice? *The schedule is fluid. Information received as part of the initial Public Input Session will likely impact that schedule.*
19. **(Catherine and Mike Gay)** Is it common to use conditional zoning for residential land? **Do other communities use this for residential?** *State statutes enable this approach. Cornelius uses this currently, but plans to increase their existing threshold.*
20. **(Shawn Copeland)** Are there concerns by planning staff or the BOC about the effectiveness of the Rural Area Plan? *Planning staff believes the RAP is great. It included lot of engagement and participation, balancing quality conversation and growth. It also increased the rigor of ordinance*

standards, instituting stronger open space standards. Proposed developments have failed to advance through the development process or been denied because they cannot meet the DPO standards based upon RAP.

- 21. (George Berger) Troutman’s conditional zoning cannot decrease baseline zoning requirements, but they can increase standards –typically in exchange for other aspects.**
- 22. (Unknown Text) How would TCZ be used to preserve the rural area?** *TCZ is a legislative conditional process and at the discretion of BOC. If there are concerns about development in the rural area, the BOC could deny the project.*
- 23. (Polly Brockway) TCZ is discriminatory against farmers and larger landholders. It is arbitrary and capricious in that rules can change for different landholders at the whim of the BOC. It’s unfair and unjust in that it treats landholders who cannot vote in town elections to restrictions not placed upon town citizens. It violates the American ideal that government treat citizens equally. TCZ treats citizens unequally, favoring one group over another. This proposal is flawed and should be eliminated at the earliest opportunity. For all of the reasons above, we are opposed.**
- 24. (Mike Gay) I’ve been a city planner for 20 years and this is a bad idea. Traditional zoning lets land owners know what they can and cannot do with their land.**

****Chat/Text comments shown in orange text below were received prior to the second PIS. ****

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- 25. (Rodney Graham) Since 1990, Davidson has had by far and away the slowest growth of the north Mecklenburg towns, and also Mooresville. Why then the imperative to change how we manage growth? It seems - with the exception of affordability - to have been a pretty successful approach these past 30 years. Thank you. Much of the traffic in town can be attributed to pass-through traffic. Targeted conditional and other growth management tools are to be explored further at the direction of the BOC.**
 - 26. (Unknown Text) What is the cutoff date for email comments?** *Public comment is always welcomed. However, for inclusion in the PIS Report, please send comments by the end of the week (Friday, September 19).*
 - 27. (Rodney Graham) I thought the Town of Davidson wanted to target growth in the Village Infill, which is more walkable and supports our downtown businesses. Why does growth in this area need to be further restrained compared to our existing tools? Thank you. The BOC directed staff to look at areas in town feeling the most development pressure. In recent years, tear downs and loss of tree canopy in the Village Infill have concerned residents and the BOC. This proposal is still fluid. It could change based upon feedback and recommendations from the PB Subcommittee.**
 - 28. (Rodney Graham) The Rural Area Plan involved dozens of public meetings with hundreds of hours of citizen input. It resulted in between 50 and 70% open space as well as certainty for landowners, and rightly won many planning awards. Why replace it? Since it's adoption, I am not aware of any development that has happened in the rural area, which means the Rural Area Plan did not make development easy. Why change something that appears to be working? The RAP is working. The BOC sees targeted conditional as another layer of protection. However, the RAP is working. Contrary to popular belief, the town has turned away development**

in the Rural Planning Area because the proposals cannot meet the increase rigor in the DPO regulations (based upon recommendations from the RAP).

29. **(Rodney Graham)** You're assuming that going to a conditional model would control growth. What if a new Board was elected (perhaps with funding from developers and wealthy landowners) that favored massively dense development in all areas of Davidson? Wouldn't all Hell then break loose? How would we protect against this? Isn't it better to control growth through the wishes of the citizenry, and not just 5 people who always change over time? Now, our Planning Ordinance and Rural Area Plan controls growth. Can you compare the growth of Asheville, Chapel Hill, Cornelius and Mooresville - which you say uses conditional zoning - to Davidson, which largely relies on administrative approvals informed by a citizen led Planning Ordinance? Agree that predictability and consistency is lost should BOCs change over every two years. Re: growth rates, while not certain, Davidson is likely at the bottom of that list.
30. **(Rodney Graham)** Isn't the lack of racial equity the biggest drawback to this proposal, which adds cost to the process and by favoring low-density single-family zoning seeks to encourage large homes on large lots, AKA "very expensive housing." Given that 98% of homes valued at over \$400,000 in Davidson are white-owned, doesn't this proposal make it even harder than it already is for minorities, which earn about two-thirds the income of whites, to live in Davidson? A racial equity bias has been noted by a resident in the first PIS.
31. **(Eileen O'Flaherty)** I concur 100% with Beth Cashion's [emailed] comments.
32. **(Rodney Graham)** If the Town truly wants truly affordable housing, why doesn't the Town invest its tax dollars in affordable rental projects, rather than rely on developers? We are, after all, one of the wealthiest towns in North Carolina. There is example after example of governments investing in affordable rental projects, with resulting diversity. As Beth Cashion said, Cornelius has a 3-story rental complex in Antiquity, and 40% of the residents are minorities and the surrounding neighborhood is thriving. It's time for Davidson to look forward. Policy directions re: Affordable Housing come from the BOC.
33. **(Eileen O'Flaherty)** I also concur with Rodney Graham's comments.
34. **(Jordan Hylton)** In response to Nora Barger's question. It was noted that if a proposed project exceeds the thresholds proposed in the TCZ, it would no longer be 'by right' and would instead become a legislative rezoning request. How is that resulting rezoning request different than noting that adding the conditional zoning districts is not a rezoning, but instead a text amendment? A rezoning is converting a parcel from "X" Planning Area to "Y" Planning Area. As proposed, what's being discussed tonight are text amendments which establish thresholds within a planning area. One has the right to develop below the established threshold. If a property owner elects to develop above the threshold, that shifts the review from an administrative (by-right) to legislative (conditional) process. Staff recognizes that developing "under a threshold" is not advantageous for landowners.
35. **(Bill Boehmler)** Please have Cindy [town attorney] provide the legal basis for TCZ, Statutes, challenges, court decisions relative to Davidson's specific situation with thresholds - not owner petitioned conditional zoning.
36. **(Angie and Joe Grooms)** This is a critical matter and needs to be delayed until a post Covid time can enable in-person public meetings. Zoom meetings and virtual communications limit

this discussion to those of us who are privileged and technology enabled. The land is not going anywhere.

37. (Rodney Graham) Any piece of proposed legislation should be evaluated using two questions: 1. what problem is it trying to solve? 2. who benefits and who loses? What is the problem? Davidson has grown far less than any surrounding town - especially Cornelius, which has conditional zoning - using citizen led planning. If it ain't broken, why try to fix it? Who loses? Landowners, whose property is devalued and who would face uncertainty under the TCZ proposal, and whose financial future may rest with 5 people? Who benefits? I'm not sure. Do we citizens benefit by having fewer people in our town? Would the citizens of 20 or 25 years ago have benefitted had we not had River Run, Spinnaker Cove, or St. Albans, where 3 of our commissioners live? Since when is more people a bad thing, especially if we can get a more diverse citizenry than we have now?
38. (Bill Boehmler) "By mutual agreement" is meaningless when the BOC has the big club, and the landowner is coerced into a conditional zoning in which he has no power whatsoever.

D. EMAILS FROM RESIDENTS

Planning staff received a number of emails on this subject both before and after the PIS. As stated during the staff presentation, these emails are included below in their entirety.

1. **From Emily Hilton:**

I am writing to state my position AGAINST the proposed targeted conditional zoning.

The Rural Action Plan was put in place over a three-year public comment period ending in 2017. It was done thoughtfully and with community support to address three primary objectives of conservation, connectivity and consistency. Outside consulting firms were asked to bid on RFPs to help facilitate the RAP. It has subsequently won multiple awards, but more importantly it has the backing of the community and was meant to address the changing needs of Davidson over the next 20 to 30 years. I am dumbfounded that there is a proposal to change any aspect of this plan three years after it was put in place. It is not clear what the targeted conditional zoning plan attempts to correct or address, or even why any changes are needed.

One thing that is evident in the town of Davidson is that it is an attractive place for people and families to grow and retire. As an example the development around St. Alban's which was noted as a success story in the current zoning regulations addresses all three of the objectives, conservation, connectivity and consistency and is one of the most dense areas in Davidson. It allowed for 288 units on 80 acres of which 23 of those acres (nearly 30%) are open space. This is an area that has been, and will continue to be attractive to young families, retirees and others who perhaps cannot afford the \$1M+ price point noted on Tuesday's call for an annexed property. Davidson should be affordable, diverse and should appropriately combine density and open space. The Rural Action Plan accomplishes all of this.

We have been a part of the Davidson Land Plan, the 1998 ETJ Expansion and obviously the culmination in the latest Rural Area Plan. The proposed targeted conditional zoning lacks any sort of direction except that it is against development in general. Development will happen in Davidson, and we should be smart about that. The Rural Action Plan was intended to do just that. Again, I am against the proposed targeted conditional zoning.

Regards, Emily Hylton

2. From Ann Haley and Shaw Smith:

My reaction to the documents sent to us regarding the concept of conditional zoning is that it is simply an effort by the town to exercise more discretionary control over every single decision regarding zoning. If they follow the normal rule, they would set the zoning and the market would respond.

If every single thing that comes up is subject to not only individual decisions but individual decisions regarding subparts and components of what is required in order to get the zoning, which will allow them to proceed with whatever they want to do, the town exercises ridiculous control over each item. This is nothing but a power grab, to set up the ability to benefit some at the expense of others. As a matter of principle and as a matter of fact, it is ridiculous. It may or may not be legal, and in practice I am sure there will be cases where “conditional zoning” will be abused and/or if challenged will be found arbitrary and capricious. Somebody in power is seeing dollar signs

I would support an all-out effort to stop this even if I didn't have a stake in it.

3. From Bill Boehmler (1st email):

I'm Bill Boehmler. Sarah and I live at the end of Charden Road in Neighborhood Edge in the ETJ. We are extremely concerned about the proposed Targeted Conditional Zoning Ordinance.

Under the current draft, it would eviscerate the multi-award-winning Rural Area Plan for properties of more than 35 acres. This is both arbitrary and discriminatory to the interests of large landowners. The Rural Area Plan followed months of community participation, careful thoughtful planning by Town staff supported by highly qualified consultants. The TCZ proposal would provide no guidance for landowners or developers – there would be no plan. A landowner would have to propose a plan and enter into the interminable process of revisions and hearings and tweakings to have any clue as to the Board's preferences and plans, if any.

The Board's actions provide some clue to their motivations. The dwelling units trigger of 36 units suggests that the Town might feel five acre lots are appropriate for our land. Past indications are that the citizens and the Board do not want that sort of high-end housing. Another indication of Board intent for the rural area is the oft repeated phrase “we must preserve our rural areas”. In plain English that translates to “Farmland Forever”. That is hardly a plan for managed growth. One final indication of Town intent contained in the Comprehensive Plan is that our land is a view-shed to be preserved. Our efforts to make our property attractive are being used against us.

You have taken careful steps from your first day in office and through Strategic Plans, Core Values, a Comprehensive Plan etc. to justify your desire for very limited growth. You cite “Everybody Does It” benchmark communities. In practice, everybody doesn't do it. Growth of Davidson vs. its neighbors makes that crystal clear.

It is unclear how TCZ would manage growth, other than foot dragging, changing demands for walking trails, bridges and other possibly prohibitive amenities, and admittedly “intentional” added process steps. It would be a return to the situation that revealed the need for a rural area plan in the first place.

The recent Comprehensive Plan said that large landowners are protected by the ability to sell their development rights to the Town. That is a great solution for the landowners, many of whom would like to hold onto their land, while realizing its development value. Make us an offer.

4. From Matt Dellinger:

Jane, Autumn, Jim, Matt, and David,

If any of you would be open to discussing the Targeted Conditional Zoning concerns with me, I would be glad to find a time convenient to you.

Our Town's Planning Board has discussed it multiple times, including last night. I don't recall any support for it voiced from the Planning Board—on the contrary, I believe nearly every member present spoke about it with perspectives ranging from questioning its necessity and utility, to having legitimate concerns with its disparate impacts and susceptibility to perversion or abuse. There were also comments directed at the process by which this has been advanced and how this process relative to other ordinance text amendments has been quite different, including a lack of public engagement or direction for same from your Board.

While I do not want to hijack Kelly's well-stated thoughts below, I would note that I, personally, share his concerns, and as you will see in our Planning Board's discussion, such thoughts are not isolated nor exclusive to Kelly. To dispense with any ambiguity, I am opposed to the Town of Davidson revising its ordinance to create a targeted conditional zoning mechanism; that opposition has many layers that I'll be glad to walk through with you. I would respectfully ask that you take a fresh, dispassionate look at what the Board's effective rezoning to conditional of a significant portion of town would mean and not proceed any further with it. At a minimum, I would ask you to consider how the Board has treated this process to date, then seek and genuinely weigh the input from your advisory board, citizens, and those who stand to be disproportionately impacted.

Regards,
Matt

5. From Kelly Ross:

Town Board of Commissioners:

Your treatment of these two churches also brings up a concern I have regarding the Targeted Conditional Zoning changes currently under consideration. The vastly different ways you have treated these two churches' requests in the past year foretells the risk of more Board of Commissioner control of development processes that a Targeted Conditional process will enable. I fear the Town of Davidson will devolve into a town where only the well-heeled and well-connected get to have the real access and influence on Town resources and decisions. And thus, over time the Town will also gain an unfortunate reputation where development decision processes are characterized by favoritism, capriciousness and the personal whims of whomever is currently sitting on the Board.

While you can point to the Comprehensive Plan action steps as the reason you are pursuing this vehicle (Action 2.1.3 Consider thresholds for targeted application of conditional master planning process, page 57), notice the recommendation is only to "consider" adjusting the thresholds.

The thresholds, as you have currently proposed, will subject most new development to Board review and approval. This may be your objective, but any short-term benefits you believe exist are far outweighed by the longer-term risks you may not be anticipating.

The first risk is that our robust, well-vetted and detailed ordinances will lose their impact on guiding and influencing development in the Town. Over time this will be increasingly so: as the Board has greater influence, ordinances will lose their teeth, and, since nearly all Board and Planning Department staff time will be consumed with Targeted Conditional approvals, ordinances will atrophy and become irrelevant. This leads to the second risk, this concentrated power at the Board will reduce the professionalism and quality of our Planning Staff. As their influence on helping the Town craft strong, forward-looking and fully-vetted policy and practices is replaced with trying to decipher and anticipate the whims of individual board members, the recruiting firms' calls to the Planning staff will become more enticing. Indeed, recruiting other top-notch planning professionals will be a challenge as prospects become wary of the Town's new culture and as the Town's forward-thinking reputation is greatly diminished. Top-notch, professional organizations take years to build and develop, but they can be quickly lost when abused and taken for granted.

If you have made it this far into my letter, thank you. These are some tough words, and I do appreciate your time to listen thoughtfully. Our personal and implicit biases as an individual level are very difficult to uproot and examine without being exposed and called out by others. That is true for groups and organizations as well. The real challenge is, once identified, how do we as leaders respond?

As you know, I am on the Planning Board. However, the Planning Board is not designed as a place to air my personal views just because I am a member, rather, it is a forum to drive towards a consensus point of view on behalf of the Planning Staff and Board of Commissioners on matters before the Town.

These thoughts are my own.

Respectfully,
Kelly Ross

6. From Kate Barger Weathers:

My name is Kate Barger Weathers. I'm a 3rd generation property owner in Davidson.

I am submitting this statement to confirm my position **AGAINST** the proposed targeted conditional zoning being considered for Davidson.

In my lifetime, the amount of change that I've seen in Davidson has been tremendous. The days I spent riding my horse along the gravel driveway of Claude McConnell (now the New Neighborhood / McConnell Development) on the way to the Tevepaughs or hours spent driving a tractor to bale hay in the fields surrounding the family home, are long gone. Cow pastures have been replaced with purposefully planted pine trees for timber harvest and new houses have replaced the farm fields and the dairy farm that were adjacent to our family property. What remains are fond memories of days with less traffic and less worries, friends who are farmers & landowners in the ETJ, and my passion for the land that has been in my family since the 1940s. And, despite all of this change, Davidson continues to be a charming

location and one that is desirable for both those that live in town and those that live in the surrounding areas.

The history of Davidson and the issue of land planning – particularly in the rural area – is not a new challenge nor is it a new frustration for larger landowners. For those that live in Davidson’s extra-territorial jurisdiction (ETJ), which falls under municipal zoning control but is outside of the town’s corporate boundaries, we are not able to vote in town elections, we are rarely included & don’t feel welcomed to participate in discussions (charrettes) about what the future holds for the town, for the rural space and village edge, and we are also not even informed by town leadership about new strategies like the proposed targeted conditional zoning (TCZ) project. We have endured projected maps that show roads going thru farm property, zoning issues, and different proposals that were intended to curb growth. All have caused unnecessary, stress, confusion and frustration for landowners.

Concerns about the TCZ & the implications for variables in decision-making

The rural plan, in place since 2017, exemplifies a zoning project that was purposeful, allowed for public comment over several years, and focused on Davidson’s goals for conservation, connectivity and consistency in the rural area planning surrounding Davidson. The plan had and continues to have community support and it is our understanding that it was designed to provide a thoughtful plan for growth and development for Davidson and the ETJ for the next few several decades. Thus, the reason and the timing for proposed TCZ is not unclear.

For the proposed TCZ, it appears that any development in the rural area would be subject to review & approval by the Davidson Board of Commissioners. Presumably, the Board of Commissioners could delay the proposed development, add additional requirements (ex: affordable housing), fast-track an approval, or perhaps completely deny the proposal if it did not comply with their strategy for the future of the town. This approach is fraught with challenges and concerns. What happens when the current Board of Commissioners is no longer in place? What happens if the Board has developers and builders on it again, or incorporates commissioners who firmly believe in restricting all development on large land parcels? Would a different Board have a better (or worse) perspective on development and how will these impact decisions about development proposals? Thus, this unknown variable regarding who the decision makers may be for TCZ projects, will result in a situation that will be volatile and unsustainable for those who own land or wish to develop land in the areas under Davidson jurisdiction. Furthermore, the town has not revealed a definitive acreage or percentage of land in the planning areas (rural area, village edge, etc.) that would be part of the targeted conditional zoning. In other words, if you own developable land, the TCZ would likely supersede the Davidson Rural Area Plan and would make the outcome of any proposals for development very unpredictable. This unknown variable regarding what the decision would be for a proposal will make the situation untenable for the landowners and for potential developers.

Concerns about the TCZ & the implications for ethics and legality of the process

I strongly believe that ethical reasoning and sound ethical grounding cannot be suspended or ignored during the planning stages or during the implementation of any future zoning decisions for the town and the surrounding areas. The rationale for discarding the rural plan, the lack of notification and direct involvement of people who will be impacted if the TCZ is implemented, and the motivation for the current Board of Commissioners to push for this change are not known. I find this to be a disappointment from an ethical viewpoint and with regards to the transparency that this new group of elected officials said they were committed to when they ran for election. Sadly, Davidson is no stranger to lawsuits due to zoning decisions. If the TCZ replaces the rural plan and is the strategy used by Davidson in the future for zoning decisions, I

have no doubt that the legality of the process will be questioned by landowners, developers and lawyers.

Concerns about the TCZ & the implications for well-being & financial stability of landowners

In addition to the aforementioned concerns that regard the business and ethical factors related to the TCZ, the impacts of this current discussion and the possible implications of the TCZ for the individual landowners in the ETJ is critically important. Years ago, when the town zoning decisions impacted the residents of the ETJ, the personal health and well-being of several landowners was negatively impacted. From anxiety to depression, these long-term landowners felt that the town was taking away their rights. I can remember having a serious conversation with my own father in which I told him that my siblings and I would be okay with him selling the entire farm and moving to a place that had less controversy and heartache. This didn't happen, but I am aware that he is dealing with the same anxiety and concern related to the TCZ.

However, it is not only the mental health aspect that makes these decisions difficult, but also the financial stability perspective. For our family and many other larger landowners – the Armstrongs, the Tevepaughs, the Brockways, the Garmons and others – years of time, sweat, money and personal effort has been heavily invested in their property. It is not simply a parcel of land, but a place that is a home and livelihood for them. As such, it is the equivalent of the 401K that they hope to capitalize on if and when they want to retire and need to move to be closer to family or a facility that provides them with assisted care.

As I am in my mid-40s, it is easy to see that many of the previously mentioned families are in their late 60s, 70s and 80s. This should be the time of their lives when they are enjoying the investment that they made in land ownership, not a time when they are dealing with unease related to decisions from town officials for whom they never had the right to cast a ballot. This human factor and the unknown impact that the TCZ will have on the very people who have helped Davidson become a desired place to live must be considered.

In closing, I hope that the concerns I have raised and those mentioned by others will be HEARD. I am thankful for the opportunity to submit comments and am firmly **AGAINST** the proposed targeted conditional zoning being considered for Davidson.

Thank you,
Kate Barger Weathers

7. From Bill Boehmler (2nd email)

The Rural Area Plan addresses:

Traffic congestion from surrounding communities

Appropriate development for today's housing market.

Housing for retired couples and single occupants, aiding "retirement in Davidson. Density

Open Space requirements

Interconnected communities

Roads, walking paths, bicycle lanes

Desired building types

If the Board adopts Targeted Conditional Zoning for some definition of larger acreages, what plan replaces the Rural Area Plan? Has there been community involvement in a specific plan?

Can larger landholdings be treated differently than smaller landholdings in Neighborhood Edge and other Planning Areas

8. From Bill Boehmler (3rd email):

Since the day they took office some of the Commissioners have been looking for a way to overturn the Rural Area Plan. In the often repeated words of Commissioner Sitton “Where are the tools? Show me the tools. “It would appear that in Targeted Conditional Zoning, the tool has been found.

One might ask why the Board doesn’t abrogate or replace the Rural Area Plan. It would appear that they wanted to avoid a rezoning, and feared criticism if they outright sacked a multi-award winning plan developed with extensive community involvement.

Another approach would be to set really tight targets, like parcels over 2 acres, and plans for over 4 dwelling units. Perhaps that would be too obvious.

9. From Nora Barger:

Jason, et al.

I am concerned about the current proposal for targeted conditional zoning. Being on the planning board I have had the opportunity to watch the “exploration” of this development tool from the very beginning. As a resident and planning board member of the Town of Davidson (although unable to vote for elected officials) I find both the development of the current proposal and the process to which we have arrived at this point extremely disappointing and concerning. As a landowner in the ETJ that could be unduly impacted by the proposed text amendment, I have come to believe the targeted conditional zoning in the form that is currently being proposed is potentially illegal.

To begin, if TCZ is implemented with the current thresholds and in the current proposed planning areas, most of the remaining developable land in Davidson will be under conditional zoning. And not just conditional zoning, but a conditional zoning where NO CONDITIONS have been set/ agreed upon/ mentioned/ let alone defined by the Town.

It is true that conditional zoning is a widely implemented zoning tool to add restrictions to current zoning ordinances. I believe that MOST implemented conditional zoning includes the explicit conditions that are being added to the existing zoning ordinance. WITHOUT the town explicitly stating the conditions this proposal feels capricious at best, with decisions around approved developments subject to the whims of the current Board of Commissioners, but closer to a governmental taking. For example, in Chapel Hill conditional zoning is utilized. My understanding is one of the explicit conditions is for increased affordable housing units in certain areas of the town. If affordable housing units will be built in these conditional zoning scenarios, the developers are allowed a density bonus. I could get behind and support conditional zoning in that example. **I would like the Town to provide examples of other governmental jurisdictions in NC that have implemented conditional zoning WITHOUT explicitly stating the conditions. And if there are examples, I would like to know what the impact has been.**

Development and especially good development usually come from a clear process so the developers know what they can and cannot do and the Town has firm ground to stand on when

denying approval. As proposed the TCZ will eliminate ANY clarity around what can and cannot be developed throughout a large portion of the town. I understand the intent to better time development and have some oversight to push for the best development possible to meet the Town's needs and goals. I understand the intent, but I believe that the only way this tool will allow for better timed development will be through arbitrary foot-dragging, conditions that could change board-to-board and honestly even month-to-month. The development process will be drawn out. The cost of the process will be driven up – both for the town and for developers. The development proposals themselves WILL NOT improve. The focus will become how to quickly get approval and any creativity or collaboration with the Town will be lost.

Finally, the award-winning Rural Area Plan would be nullified. The plan was adopted after extensive public input less than 4 years ago. As the ETJ representative on the planning board I have spoken with as many ETJ residents as possible about the proposed targeted conditional zoning to ensure they are aware of what is being proposed and opportunities to voice their support or concerns. The responses I have gotten have ranged between considering legal action if this passes to being despondent because they feel they have fought this battle repeatedly with the Town over the years. I will remind you that the residents of the ETJ do not vote for the Board of Commissioners.

While I do not support TCZ as it is being proposed, it is imperative that if it moves forward, the process to adopt it is carefully considered. It WILL have wide ranging impacts throughout the town but mostly in the ETJ as that is where most of the remaining developable land can be found. It needs much more careful consideration: Is it the right tool to meet the town's goals? Are the thresholds appropriate? Why now? Why is there seemingly little to no public support? And most importantly, in my mind, what other tools could be utilized to reach the same goals? The saying if all you have is a hammer, everything is a nail keeps coming to mind.

I could continue with other concerns, but I also fear that my efforts might be in vain.

Thank you for your time in reading these lengthy comments. I appreciate what the Board of Commissioners is trying to do, I just do not agree – in any regard – with the current proposed method or process.

Sincerely,
Nora Barger

10. From Kate Barr:

Esteemed Commissioners,

Unfortunately, I am unable to attend the public input session for the proposed Targeted Conditional Zoning next week. I am sharing my thoughts with you here in the hopes that you will take these under advisement in addition to the feedback you receive on the 27th.

Overall, I have been grateful for this Board's commitment to affordable housing and maintaining Davidson's small-town character. I believe the driving force behind your desire for Targeted Conditional Zoning is your desire to make our community more accessible to people from all walks of life and avoiding the homogenous development overrun we have seen in our neighboring towns. Sounds good to me.

But, here's the thing. I'm a behavioral scientist (MPH from UNC-Chapel, a decade as a researcher at the University of Michigan) and have done a fair amount of work on implicit bias and racial disparities in our public health system. Research in these areas shows that no human, no matter how well meaning, can objectively evaluate anything without subconsciously taking (perceived) socioeconomic status, gender, and race into consideration.

"The research confirms what many have known or suspected – that years of exposure to structural and cultural racialization and privilege have embedded stereotypes and biases in our individual psyches and the broader culture. And because of the link among cultural stereotypes and narratives, and systemic policies, practices and behaviors, implicit bias is one part of the system of inequity that serves to justify inequitable policies, practices and behaviors – part of the complex cycle people are trying to disrupt." (Racial Equity Tools - link below)

What does that mean for Targeted Conditional Zoning? It means that every development decision a commissioner makes risks having undertones of racism, sexism, and classism. Would a female developer of a large apartment complex receive the same consideration as a male one? Data suggests no. Would a black or brown developer? Again, data suggests no. I don't believe that any of you would intentionally make choices based on these factors, but the whole point is that we, as a species, can't help it. And we do it without even realizing it. (Please see below for resources and citations.)

Even if this Board were to evaluate proposed development flawlessly, what happens when new members with different agendas join? You could assert that each Commissioner, being elected by the people, will represent the will of the people, but I think we all know that local elections have paltry voter turnout and many disenfranchised voters don't even have an opportunity to learn about their candidates. Commissioners (and most elected officials) are most likely to represent the will of older, wealthier, whiter voters because those are the folks who are able to turn out for elections.

Finally, I'd like to remind you that many of you were elected because town citizens perceived that Board development decisions were capricious at best and corrupt at worst. Doesn't Targeted Conditional Zoning simply codify this practice, rather than preventing it?

I would suggest that if you would like to promote developments of certain types (such as those that include affordable housing), you find ways to incentivize developers to develop in that manner. For example, what if we have a fast track for all developments that include affordable housing? Or raise the payment-in-lieu to make it a less attractive option? Or perhaps modify the ordinance to require affordable housing construction in certain zones?

There are many ways to solve the problems you're facing while also maintaining transparency and an equally applied set of standards for all property owners and developers.

Thank you for taking my comments,
Kate

Understanding Implicit Bias

<https://www.scientificamerican.com/article/how-to-think-about-implicit-bias/>

<https://www.racialequitytools.org/act/communicating/implicit-bias>

<http://kirwaninstitute.osu.edu/research/understanding-implicit-bias/>

[https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(18\)32267-0/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(18)32267-0/fulltext)

11. From George Berger:

Absolutely well-done, y'all. Don't change a thing about how the presentation and comments were received, read and answered.

That said, Jason you'd asked for comments from those who support the concept. I do, generally. However, based on my experience I believe I would recommend higher thresholds before TCZ kicks in. I understand why some would want the lowest number of proposed units to be the threshold. However—first-hand, that is not a panacea for 'keeping rural rural,' what it seems to do—as some of the other commenters pointed out—is give the elected body almost unlimited authority for legislating conditions.

Perhaps a way to temper this can be achieved; for example, grouping issue areas together for which conditions apply, so as to keep transportation items/conditions together, lot number/density items together, et.

Good luck with this issue; it's pretty easy to see a number of groups staking out their positions.

George

12. From Jordan Hylton:

What are the conditions that projects will be evaluated on for approval under the proposed Targeted Conditional Zoning beyond the currently approved planning ordinance requirements? There is a proposed threshold that triggers review, but no conditions or understanding of what would or would not be approved.

If the Board declines an otherwise compliant project for density, are they prepared to defend diminution in value or eminent domain claims?

How many staff members will be needed to review and process the increased case load? Is the Board considering the increased cost to review all of the plans? What alternatives have been considered for meeting the town goals?

I am against this proposal for a review process that would arbitrarily apply unknown conditions, and be political in implementation. This would unevenly impact property owners rights in the same planning area depending who they are, when they apply and who is on the Board.

13. From Sam Barger:

Members of Town Board,

In the mid-90s, I watched my father age decades in a matter of years because he was so stressed by the Town's attempts to place development restrictions on Barger Farm. He considered taking legal action but was advised against it given the cost and the Town's ability to change ETJ land regulations on a whim. At one point, the Town enacted a 'macro overlay/scenic viewshed' forbidding any development on the ~45 acres around his childhood home on the south side of Concord Rd given the bucolic vista of a pond, some cows, and an old barn. Now that bucolic vista is hidden by 17-year old Pine trees. Fortunately the 'macro overlay' was removed.

The Rural Area Plan was a welcome change for ETJ landowners. Their participation was actively solicited by the Town and the consulting firm by mail, by town newsletter, and even in *The*

Observer. ETJ residents finally felt as though they had a voice, if not a vote. The Rural Area Plan required 57% open space. 57 percent! That is a huge haircut on the value of large tracts of land. Yet many ETJ residents supported the plan because they felt it provided some certainty. Now, less than four years later, that hard-won certainty appears on the verge of collapse as the Board considers conditional targeted zoning. Not only is the proposed zoning capricious based on the Board's view of development that day or the macro-economic cycle, but also it feels underhanded. Was a single letter sent to landowners in the ETJ? Was this proposal mentioned in the town newsletter? My sense is 'no'.

I think the Town and the Board can do better. Let the Rural Area Plan stand. It's won awards locally and nationally. Give ETJ residents some certainty. If you do plan to make material changes that affect folks' land, do so transparently with ample input from those affected.

Sam Barger

14. From Kathleen Rose:

Hello,

If passed, will the town be compensating property owners for the diminution of value as a result of downzoning? Not sure this would have legal standing.

Kathleen Rose

15. From Nora Barger (2nd email):

Jason,

Thank you for your continued focus on this issue and willingness to field questions. I have been doing some additional research to gain some more clarity and have some follow up questions that seem to tie into the information I sent in my previous email. If you have received any information back from the Town Attorney, I would love to hear her thoughts.

The public hearing made it obvious that Davidson residents, especially in the ETJ, are extremely concerned about the way targeted conditional zoning is being explored and the impact it could have on the adopted Rural Area Plan and their property rights. My overarching concern is how TCZ is implemented - how does it impact proposed development in the future. As I understand it right now:

- 1) either I am confused (and potentially others by the tenor of the comments) by the way the proposed TCZ is being explained around the development approval process in the proposed planning areas, OR
- 2) the proposed TCZ is potentially illegal.

Here are my questions/ request for greater clarification to make sure that I am very clear on how I am thinking about the proposal:

- 1) My understanding from your information is that the requirements existing in the development ordinance stand, even in the proposed conditional zoning areas, ie. even if a proposed development trips one of the conditional thresholds, if it meets the by-right requirements, it would be approved. Is that correct?

- 2) My understanding is that NC LAW requires that conditions must be agreed upon by the applicant and the landowner. Is that correct?
- 3) Based on the two stated assumptions above, the development approval process in the TCZ areas would generally move forward in one of three ways:
 - A) a project doesn't meet the conditional threshold but meets the base ordinance requirements and moves forward by-right;
 - B) a project meets the conditional threshold, triggering a conditional review, it meets the base ordinance requirements and is approved;
 - C) a project meets the conditional threshold, triggering a conditional review, it doesn't meet the base ordinance requirements so either it is denied approval OR the Town/ BOC/ property owner/ applicant work together to agree upon additional conditions that must be met in order for the project to be approved.
- 4) Said another way, a proposed project in the targeted conditional zoning areas CANNOT be denied if it meets the existing base ordinance requirements. Is that correct?
- 5) More broadly, my understanding is the development ordinance supports implementation of existing plans (ie. comp plan, rural area plan, mobility plan). If the development ordinance doesn't, it is amended. How does TCZ as proposed help implement the Rural Area Plan? How does TCZ as proposed help implement the Comp Plan?

Thanks again for your time and assistance with these questions. My hope is that I am simply not understanding what is being proposed - if the base ordinance stands and TCZ simply gives the Town a little more flexibility for entertaining creative solutions that is one thing. If each development that trips the TCZ threshold would be considered ONLY with additional conditions placed on the development beyond the base/ existing ordinance, with the conditions being imposed on the proposed project by the Town/ BOC, that is a VERY different situation.

I look forward to your response.

Best,
Nora

****Emails shown in orange text below were received prior to the second PIS in September. ****

16. From Joe Griffeth:

Dear fellow citizens and planning board

I do not support your plans for targeted conditional zoning. I've read the minutes and the discussion, and I am not in favor of the town taking this action at this time.

First, we have a great plan today that was agreed on by the community and the rural impacted landowners just 4 years ago. Stick with the plan. It's working!

Second, I think it would be a big mistake to politicize the approval of each development in rural areas as you have detailed. What kind of power are you trying to give to 6 town members? Which ones will EVER vote for a particular development? That's crazy as I read it (yes, I see your size thresholds).

Third, I can't understand how you can destroy value in someone's property who you don't technically represent. Said differently, they can't vote for or against you in the rural EJT, and I'm not sure this is legal in such a draconian fashion. You clearly stated in your Q&A that, this will likely reduce values for surrounding landowners. If you go this route, I am certain we will face significant additional legal (not to mention administrative) costs.

In general, I am against this and think you are using COVID as a smoke screen to push through something that hasn't thought through.

I don't support this measure. Sure, I'd love for there to be no development and Davidson to remain exactly as is with no growth, but that's not realistic. Stick with the plan we have.

I'd like to speak with those on the board supporting this.

Sincerely,
Joe Griffeth
355 Pine Rd
Davidson, NC 28036

17. From Doug Meyer

Dear Town of Davidson Board of Commissioners,

Please honor the recommendations and intent of the 2017 Rural Area Plan as it informs the Davidson Planning Ordinance. If changes are to be made to the DPO, a thorough review/revision of the RAP should be conducted first following the same vetting process with all of the applicable stakeholders involved.

Thank you,
Doug Meyer (McConnell Neighborhood)

18. From Alan Spiridon:

Good evening,

I do have a few questions relating to the upcoming public hearing. I wasn't sure if I should ask these questions now or at the time of the hearing but here we go.

One of the reasons that attracted my family and I to relocate to Davidson was the small town feel and the minimal impact of either residential or commercial growth. We wanted to enjoy the parks, trails and community without the big congested city feel. We also wanted to invest in a home where our property values will continue to grow. With that being said, I'm highly concerned that we as a community forget what made Davidson so attractive to its residents and begin to move in a direction that will reverse what we all have worked so hard to achieve.

Q1. What is the Township's vision of what Davidson should look like moving forward? Is it more housing as in additional subdivision? Is it more commercial infrastructure?

Thank you for your time

19. From Owen Mundy:

Hello,

I'm writing to voice **opposition** to the TCZ as it currently stands for the following reasons:

- There is already a rural plan: Put in place 2017, it allowed for public comment over several years and focused on Davidson's goals for conservation, connectivity and consistency.
- There are better alternatives that prioritize "the carrot over the stick" for example by purchasing development rights from landowners, treating them as allies instead of enemies.
- There are issues with the way the rule is being put in place: these landowners can't vote in town elections, the Town's planning board opposes it, and the conditions it sets are ad hoc, leaving those who are more influential to benefit over those who aren't.

Finally, I urge to the town board to continue planning for the future as they have previously, by involving the community, allowing for plenty of public feedback, and making sure that everyone, from those who benefit from low-income housing, to the landowners directly affected by this rule, have a say, and vote, in the matter.

Sincerely

Owen Mundy

Associate Professor of the Practice in Digital Studies, Davidson College
642 Ashby Dr, Davidson, NC 28036

20. From Nora Barger:

Thank you for your continued focus on this issue and willingness to field questions. I have been doing some additional research to gain some more clarity and have some follow up questions that seem to tie into the information I sent in my previous email. If you have received any information back from the Town Attorney, I would love to hear her thoughts.

The public hearing made it obvious that Davidson residents, especially in the ETJ, are extremely concerned about the way targeted conditional zoning is being explored and the impact it could have on the adopted Rural Area Plan and their property rights. My overarching concern is how TCZ is implemented - how does it impact proposed development in the future. As I understand it right now:

1. Either I am confused (and potentially others by the tenor of the comments) by the way the proposed TCZ is being explained around the development approval process in the proposed planning areas, OR
2. The proposed TCZ is potentially illegal.

Here are my questions/ request for greater clarification to make sure that I am very clear on how I am thinking about the proposal:

- A. My understanding from your information is that the requirements existing in the development ordinance stand, even in the proposed conditional zoning areas, ie. even if a proposed development trips one of the conditional thresholds, if it meets the by-right requirements, it would be approved. Is that correct?
- B. My understanding is that NC LAW requires that conditions must be agreed upon by the applicant and the landowner. Is that correct?
- C. Based on the two stated assumptions above, the development approval process in the TCZ areas would generally move forward in one of three ways:
 - 1. A project doesn't meet the conditional threshold but meets the base ordinance requirements and moves forward by-right;
 - 2. A project meets the conditional threshold, triggering a conditional review, it meets the base ordinance requirements and is approved;
 - 3. A project meets the conditional threshold, triggering a conditional review, it doesn't meet the base ordinance requirements so either it is denied approval OR the Town/ BOC/ property owner/ applicant work together to agree upon additional conditions that must be met in order for the project to be approved. 4. Said another way, a proposed project in the targeted conditional zoning areas CANNOT be denied if it meets the existing base ordinance requirements. Is that correct

More broadly, my understanding is the development ordinance supports implementation of existing plans (ie. comp plan, rural area plan, mobility plan). If the development ordinance doesn't, it is amended. How does TCZ as proposed help implement the Rural Area Plan? How does TCZ as proposed help implement the Comp Plan?

Thanks again for your time and assistance with these questions. My hope is that I am simply not understanding what is being proposed - if the base ordinance stands and TCZ simply gives the Town a little more flexibility for entertaining creative solutions that is one thing. If each development that trips the TCZ threshold would be considered ONLY with additional conditions placed on the development beyond the base/ existing ordinance, with the conditions being imposed on the proposed project by the Town/ BOC, that is a VERY different situation.

I look forward to your response.

Best, Nora

21. From Sam Barger:

Town Commissioners,

I continue to voice my opposition to the proposed targeted conditional zoning. Beyond my opposition, I would like for the Board to address two things.

- 1. Why a stick not carrots? In listening to your working sessions, you mention considering other growth management tactics. What did you consider and why were they dismissed in favor of targeted conditional zoning? Why not offer a "carrot" in the form of a higher density allowance if affordable units are included in a proposed development. If growth management is desired in the ETJ, why not

purchase development rights for five- or ten- year periods to provide that predictability and provide landowners some income to cover ever increasing property taxes?

2. How do you reconcile affordable housing with restricted supply? I cannot understand how you propose to increase affordable housing stock while simultaneously restricting growth -- outside of wishing for prolonged recession or depression. Demand for housing stock is high, supply is already low and you are making development harder and more expensive. This is not a recipe for reduced prices.

Sam Barger

22. From Beth Cashion:

Dear Mayor Knox and Commissioner Fuller,

Please allow my comments below regarding the proposed TCZ amendment changes. I believe the TCZ Amendment proposal by the Board to be a step backward in time. I find it odd that the Board is pushing this as an agenda item in the current environment when there are more pressing and concerning issues such as affordable housing, inclusivity etc.

The purposed text amendment changes to the DPO to allow for a target conditional zoning (TCZ) option simply allows your five board members to decided or not - and to prolong at their pleasure any development proposals. It is also a clear down zoning option that allows for the Board to control large acreage, thus eliminating what little affordable housing options there are planned for in Davidson, eliminating much of an option for a true increase in diversity, eliminating the unbelievable requirements for open space, connectivity of greenways and trails and much more that are laid out and planned in our current ordinances.

The Board thinks this is a way to control growth. It is but it quite frankly borders, on if not is illegal. I said many times in my tenure as Commissioner - you cannot handcuff landowners. It is not fair in any form. It is not legal.

The Town has work since 1994 creating and working through plans that have given you what the Town of Davidson is today. The TOD previous Boards have worked with citizens and landowners to develop a shared vision and plan that works for all. This move is an attempt to work for just those that want and can afford single family homes on healthy acreage...not a lot of diversity or inclusivity there....While not a believer in that all developments should look alike, I have studied and understand our different developments and potential developments enough to know that what we have, and what is called for going forward, offers a varying degree of housing sizes and developments.

Several years ago we created a thoughtful and equitable (for citizens, landowners, open space advocates, park and outside enthusiasts, those in need of affordable housing) citizen based ordinance that called for mixed use neighborhoods of many housing types to attract a wide range of diverse folks. That ordinance has produced the Circles at 30 neighborhood, St Alban's and many others. We also produced the citizen supported Rural Area plan. One of the biggest resistances to this plan during discussions was a feared increase in traffic.... I will suggest that now in COVID days and the post COVID days to come peoples traffic patterns will be significantly different. There will be fewer cars with less traffic and fewer offices to

travel. The world will be far more virtual that just 1 year ago. Hopefully, less traffic will be a byproduct.

This is a conversation that you the Board is having in a COVID Zoom vacuum. At least - whether folks agree with or not any previously adopted plans and amendments, the discussions were town wide with exhausting citizen input, meetings presentation, and hundreds of thousands of dollars of consultants. This proposed change has been met with little to no citizen's input.

Again, in my opinion this is being driven by a Board who wants the Town of Davidson to stay as it is and look wealthy and exclusive and aesthetically pleasing in their view. I quoted Elanor Roosevelt in a Board meeting once, "Nearly all great civilizations that perished did so because they had crystalized because they were incapable of adapting to new conditions, new methods, new points of view. It is as though people would rather die than change. "The same still applies. Crystalizing is not option. I would ask that the Board focus should be on affordable housing and diversity. Neither of which will benefit from the Targeted Conditional Zoning.

Davidson does not always want what it says... Affordable housing sounds good, but no one really wants it in its truest form in Davidson – except packaged up and pretty with none of the uncertainties that it may allow. You must look no further than Cornelius (like it or not) to see an exceptional approach to diversity and affordable housing. There they have developed three story, well done affordable apartment complexes which house some of the most engaging people I have met. They are all on fixed income or some type or government aid. They are all rental options. Roughly 40% of the buildings are inhabited by a diverse demographic. You would be hard pressed to identify which apartment buildings are Affordable and which are not. These Affordable and Subsidized units are wrapped with lovely single-family homes of varying price points. It would behoove the TOD to study some of our neighbor's developments requirements and stop trying to reinvent the wheel.

Respectfully,
Beth Cashion

23. From Emily Hylton:

Dear Town of Davidson Board of Commissioners

It has come to my attention that there is further action being taken with regard to the proposed Targeted Conditional Zoning as a growth management tool. Thank you for reading my last comments. These comments are intended to focus on three things: 1) process, 2) need and 3) impact.

- 1. Process: There Appears to Be a Lack of Process.** As many attendees noted in the last public comment period – there appears to be a lack of process and communication as pertains to creating the Targeted Conditional Zoning. Zoning changes tend to work best with a delineated process – assess those immediately impacted and receive feedback, assess those peripherally impacted and receive feedback, take the zoning proposal to a dedicated Zoning Committee, which then moves to the municipal/town Board and then ultimately to the Mayor for final agreement or veto. What is the specific process here? Please outline each step for me. Why are we wasting time on revising zoning agreed up through the Rural

Area Plan, which, as noted in my prior comments, was intended to last for 20-30 years – and which it has been exactly 4 years since approved (Sept 13, 2016). Please explain in detail how this has been communicated to a) those immediately impacted (e.g., those land owners in the ETJ) and b) those peripherally impacted (presumably the town and other properties/towns surrounding the ETJ). Please do not assume these are rhetorical questions – we would all like to know the process for communication. Finally, as pertains to process, it is also my understanding that the Board has directed staff to engage a Planning Board subcommittee. What is the intended composition of that subcommittee? Who will chair it and what is the expected communication (both from and how does one communicate with this Committee)? Can we have balanced representation between town and rural land owners? That would seem the most equitable as those are the primary parties involved.

2. Need: What is the Need for the TCZ given the Rural Area Plan already in Place?

For many residents in the town and ETJ, significant time was spent on the Rural Area Plan. In fact, Trey Akers does an excellent job outlining the benefits of this innovative plan. For those not familiar with what Trey stated these include: open space, connectivity, conservation, predictability and retention of small town character. It is on the point of predictability that I encourage you to revisit what has already been put in place. The Rural Action Plan was designed to set clear expectations for three groups: land owners, town citizens and developers. Trey notes that “it removes uncertainty and unpredictability of the conditional rezoning process” and further that it “locks in standards to preserve small town character.” I ask again, what is the need for the Targeted Conditional Zoning overlay, when we have zoning standards and a plan that was created with interested parties that already sets explicit standards? If one of the explicit objectives is to remove uncertainty and unpredictability around zoning, why has the TCZ been proposed to look at each proposal separately? This by definition is uncertainty and unpredictability.

3. Impact: Is the Town prepared for the ancillary impact of diminished growth and lack of affordable housing? As was noted in the August 25th town meeting, the town wants to be open to development. The Rural Area Plan is already more stringent than most large developers would want or accept (e.g., the Pulte’s, Toll Brothers, etc.). As a result development partners are naturally limited to certain specialty developers – those that would adhere to the RAP’s 57% greenspace requirement. By further and arbitrarily limiting density, the TCZ will have the ancillary impact of forcing new families and lower income families outside of the town and surrounding area. How can a starting college professor with a young family afford a 5 acre parcel + construct a home? By current land values and construction costs that would be upwards of \$1M dollars. Historically the college specifically addressed this need by providing small ranch homes that families could rent, which were walkable to the town center. As years progressed, new families settled instead for developments like McConnell and the New Development, both of which are successful developments and more-dense than what would be allowed in the TCZ, despite the ample green space provided. Are a lack of affordable housing, diminished growth potential and arbitrary density rules goals of this Board of Commissioners?

Finally, in terms of impact – there certainly can be a negative impact on the town outside of diminished growth. The Supreme Court made a seminal decision on how much influence neighbors can have on other people’s properties: In *Lindsey Creek Area Civic Assoc. v. Columbus*, 249 Ga. 488, 292 S.E.2d 61 (1982), the Supreme Court notes “*It is important to keep in mind that the governing authority has approved the zoning change, thereby giving its permission to the landowner to use the property as the landowner desires. It is also important to keep in mind that we deal now with the right or power of neighbors to deny to the landowner the right to use the property as the landowner desires and as approved by the governing authority.*” There are zoning regulations in place – approved by a governing authority, which were agreed to in the RAP. In Targeted Conditional Zoning proposal would negate that work and would be in conflict with the Supreme Court’s very intention. Is the Town prepared to defend itself against legal action resulting from interference (through the TCZ) in a landowners right to use the property, which was agreed to and has been enacted in the RAP?

Regards,
Emily Hylton

24. From Jordan Hylton:

Planning Staff,

Thank you for continuing to hold public input sessions on the proposed Targeted Conditional Zoning. I remain against the proposal. I attended the August 27th session and read the comments and emails in the Public Input Session report for the Board of Commissioners. There was not a single person in attendance in favor of this proposal. All of the attendees were against the proposal. What was the response from the Board of Commissioners when presented with this report?

Which Commissioners attended the August 27th Public Input Session?

What changes have been discussed by the Board to the proposed targeted conditional zoning? With no public support for the proposed Targeted Conditional Zoning, what is the Board of Commissioners going to do about this proposal? Alternatives to meet the town goal of growth management were mentioned including purchasing development rights, voluntary agricultural districts, and annexation/utility extension criteria, among others. Given the lack of support for the Targeted Conditional Zoning, what alternatives are now being considered by the Board?

25. From Frank and Donna Molinek:

Town of Davidson,

We would like to express our opposition to the proposed Targeted Conditional Zoning. As residents of Davidson for over 25 years we have always been impressed with how Davidson has worked with stakeholders in developing planning goals and regulations. This has resulted in compromises that have produced planning that benefited both the town and the landowners in the ETJ. Davidson has been able to establish workable ideas that respect both property owners and the greater good. The proposed Targeted

Conditional Zoning strays from the successes of the past. Stakeholders have had little if any input, public awareness of the changes is nonexistent.

As voters we will look for board members who are committed to compromise and input from all involved parties. We hope the current town board will continue the Town's commitment to fairness for all Davidsonians, those living within the town limits and those who live in the ETJ. Please do not approve Targeted Conditional Zoning.

Sincerely,
Frank and Donna Molinek

26. From Kate Barger Weather

To the elected leaders of Davidson:

You were elected or re-elected for your role as leaders by the citizens who reside within the limits of the Town of Davidson. When I look back at your words as candidates, many of you said that your goals, if elected, were to:

- Ensure open, transparent decision-making in the Town of Davidson
- Address the issue of available, affordable housing in the community
- See through some of the initiatives started by previous leaders, including the comprehensive land use plan
- Ensure that citizen-input was included in the decision-making process as it pertained to the growth and direction of the town

All of these phrases seem commendable and wise for leaders of the town. Yet, when I look at your actions in the last 10 months and your directives to instruct town staff to evaluate targeted conditional zoning, I am not sure that you are living up to your campaign promises and original ideas. I find this to be disappointing and wonder if some have a specific agenda to broadly limit development and this is the rationale behind the proposed targeted conditional zoning?

I have seen tremendous growth and change in Mecklenburg County, including Davidson, in the last 40 years. The very neighborhoods that some of you live in are reflective of this growth and some of you are indeed the newer people that now call Davidson home as the population has increased 3-fold in the last few decades. For most of my life, I've resided in the ETJ and on a farm that is controlled by Davidson under the auspices of the Rural Area Plan (RAP). The RAP, approved in 2016, states that its intent is to purposely manage development in a way that maximizes open space protection throughout the town's less developed areas and it calls for permanent protection of large portions of developable land. The RAP also establishes and protects open spaces while directing growth primarily to compact, walkable neighborhoods. While the Comprehensive Plan states that it "recognizes the direction set in the RAP and establishes further policy direction that confirms and refines the RAP," it seems that what we have learned about your interest in TCZ will do just the opposite. In fact, it is our understanding that targeted conditional zoning will undermine the policy direction that was set and established in the RAP just a few years ago.

As Davidson continues to be a desirable place to live, work and call home, the reality is that there is little land remaining that can support a growing town via public and private development. So, your actions and your plan for TCZ may allow you to control **when, where** and **how** future development occurs in Davidson, but frankly it infringes upon

constitutional rights of the very people who own the land that you wish to control with your words and paperwork.

So my questions for you are:

- 1. What are the conditions and criteria that will trigger the conditional zoning process?** Policy 2.1.4 in the Comprehensive Plan states you will explore the use of Targeted Conditional Zoning thresholds to regulate the approval of development projects. It also states that you will evaluate the potential benefits and drawbacks to automatically trigger the conditional zoning process. The criteria may include a proposed development's location, size, building type(s), or transportation impact, among others. How do we as landowners, and how do potential developers know what this means and what criteria will really be used? As it looks now, it appears that it will be your personal preference, as the 5 nonpartisan elected commissioners, who will decide what criteria will be used and how/when growth will be allowed. We asked this question during the previous hearing and were not given any specific information other than the potential acreage & housing criteria for the 4 different areas that can be impacted by TCZ. So, I ask again: What are the conditions and criteria that will trigger TCZ?
- 2. What is your statement of consistency for the rezoning measure to change from the Rural Area Plan to the TCZ proposal?** Per a statement on pg. 112 of the Comprehensive Plan, "the state of North Carolina mandates that municipal zoning align with the comprehensive plan. When local governments make rezoning decisions, they are required to provide a statement of consistency describing how the rezoning is consistent with the comprehensive plan." Other than causing angst within residents of the town and the ETJ and destroying any semblance of trust that existed on a personal level with town leadership, it is not clear what the goal is for the rezoning change. What consistency can possibly be achieved when proposals are being reviewed by elected officials who may have their own agenda?
- 3. How does the proposed TCZ actually confirm and refine the established direction of the RAP?** If the proposed TCZ, along with the unknown criteria, allows the elected commissioners the right to review and approve development projects, it seems that this very action overrides the carefully crafted and approved rural area plan. While you state that you want to preserve the character of Davidson with controlled growth in the years ahead, it seems that you are jeopardizing the very future and desirable character of Davidson since you have term limits as elected officials and have no idea if you will be re-elected for future leadership of the town. Again, How does the proposed TCZ confirm and refine the established direction of the RAP?

Best regards from a very frustrated landowner in the ETJ,
Kate Barger-Weathers

27. From Vicky Conrad (1st Email):

In your proposal, you list pros and cons. The cons admit that this zoning "could reduce the value of larger parcels" by making these parcels "harder to develop" and put a "significant burden on these property owners".

Between 2018 and 2019 the average INCREASE of property values of current commissioners' properties was 39.82%! How can you, in good conscience, justify the likelihood of reducing

the property values of other owners when your property values have increased almost 40%??

Vicky Conrad
ETJ land owner

28. From Vicky Conrad (2nd Email):

There is much concern now in Davidson proper that older citizens be able to age in place. Many of us in the ETJ would like to age in place, too. But by constantly changing the rules and adding more and more restrictions, we have no ability to plan for even the near future. Will you eventually take away ALL of our property rights?

Vicky Conrad
ETJ

29. From Jerry and Elaine McArn:

We would like to express our disapproval of the TCZ that is being considered by the town. This change would negatively impact land owners in the ETJ. The town has a wonderful Rural Area Plan that was to serve the town and ETJ for years.

Jerry and Elaine McArn

30. From Ken Conrad:

In 1987 we purchased 36 acres adjacent to the Barger family farm. After raising our family here, we would like to remain here indefinitely.
However, I think we can speak for the majority of landowners in Davidson's ETJ in saying that we, as a group and as individuals, feel threatened by the proposed Conditional Zoning.

As we have no vote on Davidson's matters, if the Town Council approves Conditional Zoning, with no guidelines set forth as to their future actions, our long-term investments in our property could be as negatively affected as a foreign government imposing a 50% tax on the Town Council's individual 401K retirement funds.

In principle, the proposed Conditional Zoning is a wrongheaded approach creating uncertainty and ill will in the greater Davidson Community.
The existing Rural Area Plan should provide enough of a safety net against hyper development which many of us in the ETJ aren't in favor of either. Leaving future decisions up to the prevailing whims of Town Council sends the wrong message from a community leadership as traditionally progressive as Davidson's.

Ken Conrad

31. From Rodney Graham:

This is an important public input session. In short, the proposal to apply 'Targeted Conditional Zoning' to Davidson represents a giant step backwards from decades of citizen-driven planning excellence which created many of the neighborhoods that we live in and enjoy today, as well as commercial centers that are among the best in the Lake Norman

region. It puts Davidson way out of step with what is happening nationally and locally, in that it encourages development that will be almost exclusively all white.

Beginning with the planning ordinance of 2001, Davidson engaged citizens to create comprehensive plans which then informed our zoning ordinance. If developers brought forth proposals that were consistent with citizen's wishes as expressed in the planning ordinance, legally they were approved. As a result, Davidson had not only the slowest growth rate of the north Mecklenburg towns in the 1990s and 2000s, we also became a model for good quality development. The St. Alban's neighborhood and the Circles at 30 are but two examples where this citizen led process resulted in high quality development with a diversity of building types (the St. Alban's neighborhood has single family homes of all sizes, townhomes, and several casitas that are rented at an affordable rate).

Targeted conditional zoning throws all of that out the window, and instead replaces it with an approach whereby most developments will have to be reviewed by five elected officials, which without a guiding standard will result in arbitrary and capricious decisions that are subject to the influence of developers. In short, the future of our town is taken out of the hands of 12,000 people and placed in the hands of only five, and every two years it can be a different five people.

Most importantly, under the proposed targeted conditional zoning proposal, the only developments that will be allowed will be low-density single-family housing. With land costs in Davidson as high as they are, this will result in more and more expensive housing. And it's just a fact that in Davidson expensive homes are almost solely owned by whites. Over 98% of homes valued at \$400,000 and up in Davidson are white-owned. In effect, while this may well not be the intent, the consequence of a zoning policy that results in low-density single-family housing is that Davidson will continue to become whiter and whiter. In the last two years 96% of the people who have moved to Davidson are white, and that number gets higher every year.

We must, "by right," have diversity in our housing options. We can't all be single family housing. Cornelius has done a great job of providing affordable rental housing that has resulted in great diversity. Davidson has done it too, although not for the last few years.

Nationally we are understanding that many people have been excluded from a seat at the table. By favoring low-density single-family housing, Davidson is unfortunately excluding many people from the opportunity to live in our town. This is not the right approach.

Rodney Graham

32. From Margo Williams:

Please respond to the following:

Mitch Silver, former President of the American Planning Association, visited Davidson several times and gave us great guidance in our planning. He said, "there are deal-making cities and plan-making cities."

He went on to say that deal-making cities put elected officials and staff in jeopardy of being buffeted by urgent special interests on a case-by-case basis. In plan-making cities, the ordinance is established by officials, staff, and citizens over a long-term period. The

ordinance should reflect the hopes, principles, and desires of the community. If it does not, then the ordinance should be changed, not the accepted standards of planning. The ordinance should then be understood widely and enforced.

Thank you,
Margo Williams

33. From John Brockway:

Since the majority of the larger landholders in the ETJ oppose this plan, *for serious reasons of devaluation of our owned and taxed property*, why is the Town Board not listening to the owners of the land?

34. From Barbara Bryan:

Targeted conditional zoning (TCZ)—in two recent building or use concerns involving churches in Davidson—sparked conversations illustrating both why TCZ is a reasonable addition and how, “all things considered,” it can approve a beneficial variance where strictly holding to DPOs will not.

A Strong Towns approach to either group’s interests may “allow” a different and likely revenue-producing use of unused property in Town. Holding out for their ideal “highest and best use” by elected, employed, even top-notch planning officials may not be good when a realistic one is offered.

In recent decades Davidson’s memorable land squabbles have arisen from ignoring or plowing ahead with “variances” that gave lie to righteous claims of rigid adherence to PDOs. That PILs (payments in lieu/loot) even exist and continue to dodge more legal action is testament to how our Town’s planning and tacit approval slips and slides.

If Town leaders had wanted the 2010 or more recent comprehensive plan chiseled in stone they could have voted in the CP and remained true to its discussed, studied, and ultimately finalized boundaries and guidelines.

Although ironic to read or hear presumed motivation of current Board members as throwbacks, intent on thwarting “by right” growth (especially in ETJ), suggesting that they harbor selfish interests—after years of slow growth and sudden open-door welcome to builders from the prior board—current ad hominem assertions do not fit.

Neither comments of those favoring or opposing TCZ add much to the discussion invoking “affordable housing” as a tool. There never has been AH for Davidson’s natives “diverse” enough financially to remain or return home to rising six figure houses in what remains of their increasingly gentrified Westside neighborhood.

African American families given \$25,000 to leave their homes and neighborhood fronting on Griffith St had to live where they could afford to. Soon to be further squeezed out by expensive Cottages and high-density houses on Hoke Lumber property, their fractured neighborhood may need as much TCZ as TLC to survive.

Some planners close to home and nationally want to halt building single family homes, requiring high density on land zoned for multi-use. Is Davidson already or destined to

become largely investment/rental/commercial property? Is that the highest and best use? Will ETJ property host high density because that's what planners prefer?

Somewhere between letting people freely chose how to use or sell their property and what happens next stands reason, right, and sometimes a "best" use not yet imagined. In cases of the not-yet-known but should-be-considered there is TCZ. For a realistic and fuller future, I am **FOR** adding text amendments clarifying targeted conditional zoning.

Barbara H Bryan
315 Magnolia St

35. From Bob Johnson:

Hi all,

I'm speaking neither for the conditional zoning nor against it, but I do think that it requires more consideration given that the consequences are somewhat unknown. Specifically, what are the consequences of the 15 unit limit in the rural area? Will that lead to numerous small developed in order to avoid board approval? Is that beneficial or detrimental? All new rules with intended consequences also produce unintended consequences and I think a discussion of those externalities would be useful.

Further, I think it is important to have that exact discussion with the landowners whose property is most likely to be impacted. Often, they have only requested predictability and clarity and have been given neither. I think that this is especially important for people who are unable to vote in town elections due to the peculiarities of the ETJ.

Thanks,
Brad Johnson
527 Concord Rd.

36. From Kyle Conrad

Regarding the proposal of the growth management strategy, I would simply bring attention to the inevitable legal and financial implications that will arise by effectively altering a landowner's access to their asset's highest and best use. Specifically, there are numerous cases (including DeCook vs. Rochester International Airport Zoning Board) in which an 'adopted regulation' constitutes a 'compensable regulatory taking', entitling landowners to compensation equal to (or more than) the true market value of their property.

Kyle Conrad

E. SUMMARY

As mentioned above, the first Public Input Session included approximately 25 participants. Almost 40 unique questions/comments were received via email, chat, and text. The participants who chose to provide questions/comments were fairly balanced between in-town (8), Extra-Territorial Jurisdiction (6), and unknown addresses (5).

Broadly, participants were not supportive and highly critical of the proposed targeted conditional text amendments. Many raised concerns about land-owner rights, the success of the existing Rural Area Plan, legal issues, concentrated discretionary control lying with the Board of Commissioners, unpredictability, racial equity and bias, arbitrary thresholds, staffing impacts, the viability of other growth management tools, timing, process, “de facto downzoning,” lack of support, and the undercutting of existing plans that had broad support (Rural Area Plan and Davidson Comprehensive Plan).

One participant expressed support for a limited implementation of targeted conditional and cited Troutman as an example.

Approximately 20 participants watched the second Public Input Session on the two provided channels: Zoom webinar and the town’s YouTube Livestream. Similar to the first PIS, almost 40 unique/comments were received via email, chat, and text. Likewise, the participants who chose to provide questions/comments were fairly balanced between in-town (9), Extra-Territorial Jurisdiction (12); also, there were participants with unknown addresses (5). Of note, the second PIS had a larger number of attendees who elected to engage via email/text/chat than the first PIS (26 vs. 19). Collectively, the two Public Input Sessions garnered approximately 80 inputs/touchpoints from residents.

Like the first PIS, virtually all participants in the second PIS echoed the criticism received at the first PIS. Their concerns included land-owner rights, the potential devaluation of property values, affordable housing, the legality of conditional zoning, the success of the existing Rural Area Plan, consolidated/arbitrary control lying with the Board of Commissioners, unknown potential future conditions, “de facto down zoning,” timing (during a pandemic), process, conflicts with what’s perceived to be as good planning, transparency, and unpredictability. One participant expressed general support for conditional zoning.

Again, staff reminded attendees that in response to the feedback received at the first PIS, the Board of Commissioners has chosen to slow down the process. This includes charging a Planning Board subcommittee with exploring other growth management tools while continuing to reevaluate targeted conditional.