



**TOWN OF DAVIDSON
BOARD OF COMMISSIONERS MEETING
Town Hall & Community Center Board Room – 251 South Street
Tuesday, March 26, 2024 at 6:00 p.m.**

**LIVESTREAM AUDIO – If viewing the livestream from a mobile device,
tap the video screen to find the volume control to unmute the audio.**

I. CALL TO ORDER

II. ANNOUNCEMENTS/PROCLAMATIONS

a. [Child Abuse Prevention Month](#)

b. [National Donate Life Month](#)

III. CHANGES/ADOPTION OF THE AGENDA

IV. PUBLIC COMMENT - The Board shall provide at least one period for public comment per month at a regular meeting.

Summary: Prior to the start of the public comment period, persons wishing to address the board of commissioners will register on a sign-up sheet stationed by the meeting room door or leave a voicemail message at (704) 940-9614. These messages will be played during public comment periods but will be limited to three minutes and the speaker must identify their name and topic. The deadline to submit by phone is 5:00 pm the day of the meeting. If the same comment is made via in person and voicemail, only one will be used in the meeting with the in person taking priority.

V. CONSENT - Consent items are typically non-controversial and routine items. Prior to the board's adoption of the meeting agenda the request of any member to have an item moved from the consent agenda to old business must be honored by the board. All items on the consent agenda must be voted on and adopted by a single motion.

a. Consider Approval of February Draft Meeting Minutes

Summary: Draft Meeting Minutes from the February 13 and February 27 meetings and the February 22-23 Strategic Planning Retreat.

[DRAFT Meeting Minutes 02-13-2024](#)

[DRAFT Meeting Minutes 02-27-2024](#)

[DRAFT Strategic Retreat Minutes 02-22-2024 - 02-23-2024](#)

b. Consider Approval of Resolution 2024-04 Contiguous Annexation Petition: 21221 Potts Street Set the Public Hearing Date

Summary: The property owner is requesting a voluntary contiguous annexation of a

portion of 21221 Potts Street including Parcel #00320511C. Requesting the board to consider approval of Resolution 2024-04 to set the date of the public hearing of the proposed annexation for Tuesday, April 23 at 6:00 p.m.

[Attachment - Certificate of Sufficiency 21221 Potts Street](#)

[Attachment - Draft Resolution 2024-04 Fixing the Date of the Public Hearing Annexation of 21221 Potts St](#)

c. Consider Approval of Budget Amendment 2024-09 2023 GO Bonds Debt Service

Summary: Budget Amendment 2024-09 will allocate funds committed for future debt service to pay the first year of debt service on GO Bonds issued in November, 2023.

[Attachment - BA 2024-09 - GO Bond Debt Service](#)

d. Consider Approval of Tax Levy Adjustments

Summary: The Town received tax levy adjustment refund check requests from the Mecklenburg County Assessor's Office for \$2,834.34, including interest, for 6 parcels. The refunds will be issued directly by the Town of Davidson. Details regarding the refund requests are available in the Finance Office.

e. Consider Approval of NCDOT Municipal Agreement for Beaty Street Sidepath

Summary: The Town was awarded a federal grant through the Charlotte Regional Transportation Planning Organization (CRTPO) for the engineering, right-of-way acquisition, utility move, and construction of a 10-foot side path along the east side of Beaty Street. Beaty Park is located on this side of Beaty Street. The side path will connect to the park, schools, and businesses. The total project cost is estimated at \$3,492,000, with 60% (\$2,095,200) being federally funded, and 40% (\$1,396,800) local match. The project will be managed by the Town, and subject to federal guidelines. The Beaty Street Side Path project is the highest priority infrastructure project in the Mobility Plan.

[Attachment - Municipal Agreement for Beaty St Sidepath BL-0096](#)

f. Consider Approval of Resolution 2024-05 Mobility, Resolution 2024-06 Greenways, and Resolution 2024-07 Parks and Recreation Proposed Extension of three (3) General Obligation Bond Orders

Summary: Requesting the board to approve Resolution 2024-05, Resolution 2024-06, and Resolution 2024-07 for the proposed extension of three (3) General Obligation Bond Orders (Mobility-\$6 million, Greenways-\$5 million, and Parks and Recreation-\$4 million).

[Attachment - DRAFT Resolution 2024-05 Mobility GO Extension 2017 Bond Orders](#)

[Attachment - DRAFT Resolution 2024-06 Greenways GO Extension 2017 Bond Orders](#)

[Attachment - DRAFT Resolution 2024-07 Parks GO Extension 2017 Bond Orders](#)

g. Consider Amendment to Resolution 2023-21 Establishing Approval and Signature Authority for Town of Davidson Contracts

Summary: On July 25, 2023, the Town of Davidson Board of Commissioners approved Resolution 2023-21 Establishing Approval and Signature Authority for Town of

Davidson Contracts. The amendment to Resolution 2023-21 clarifies the approval and signature authority for all town contracts as follows:

1. The following Contracts shall require approval by the board of commissioners:
 - f. “Continuing contracts” that (i) have a term longer than five (5) years or (ii) obligate the Town to more than \$25,000 per year in any ensuing fiscal years. Continuing contracts are defined as contracts, some portion or all, that are to be performed in ensuing fiscal years and that will require budgeted funds in such ensuing fiscal years.

[Attachment - DRAFT AMENDMENT TO R2023-21 Approval of Contracts](#)

h. Consider Approval of Noise Ordinance Variance Requests – Davidson College Spring Concerts April 19, 2024 and April 26, 2024

Summary: Davidson College has requested two (2) noise ordinance variances for Friday, April 19, 2024, for a concert on Old Tennis Court Lawn from 8:00 p.m. to 12:00 a.m. and Friday, April 26, 2024, for a concert in the new Davidson Athletic Stadium from 7:30 p.m. to 11:00 p.m.

[Attachment - Spring Concert 04.19.2024 - Noise Variance](#)

[Attachment - Spring Concert 04.26.2024- Noise Variance](#)

VI. BUSINESS ITEMS

a. Consider Approval of the 2024-2025 Draft Strategic Plan

Austin Nantz, Assistant Town Manager

Summary: On February 22 and 23, the Board of Commissioners and the Town management team held a strategic retreat in Raleigh to develop the Board’s two-year strategic plan. At the retreat, the Board and management team went through a planning process that included a SWOT Plus (strengths, weaknesses, opportunities, threats) analysis, a review of the descriptions of the 2022-2023 Strategic Plan Goals and identified new goals and strategies for the 2024-2025 plan. From that process, a draft Strategic Plan with updated goals, goal descriptions, and strategies was developed. That plan was presented at the March 12 Board of Commissioners meeting and all requested edits have been made.

Action/Proposed Motion: Motion to approve the 2024-2025 Strategic Plan.

[Agenda Memo - Strategic Plan 2024-2025](#)

[Presentation - Strategic Plan 2024-2025](#)

[Attachment - Strategic Plan 2024-2025 Track Changes 03.26.2024](#)

b. Discuss Short Term Rentals in the Town of Davidson

Jason Burdette, Planning Director

Summary: Short Term Rentals (STR) have proliferated across North Carolina in recent years. This discussion includes how STR has been defined in other communities, potential legal ramifications, and possible strategies for Davidson.

Action/Proposed Motion: This item is for discussion only.

Agenda Memo - Discuss Short Term Rentals 03.26.2024

Presentation - Short Term Rentals 03.26.2024

Attachment - Coates' Canons NC Local Government Law - Short-Term Rental
Regulations after Schroeder

VII. SUMMARIZE MEETING ACTION ITEMS - Town Manager will summarize items where the board has requested action items for staff.

VIII. ADJOURN



**A PROCLAMATION
Child Abuse Prevention Month**

WHEREAS, Positive childhood experiences like loving caregivers and safe, stable, and nurturing relationships can help mitigate trauma and the negative impact of adverse childhood experiences to promote the social, emotional, and developmental well-being of children; and

WHEREAS, Childhood trauma can have long-term psychological, emotional, and physical effects throughout an individual's lifetime and impact future generations of their family; and

WHEREAS, Childhood trauma, including abuse and neglect, is a serious problem affecting every community, and finding solutions requires input and action from everyone; and

WHEREAS, Children who live in families with access to concrete economic and social supports are less likely to experience abuse and neglect; and

WHEREAS, We are committed to advancing equitable, responsive, and effective systems that ensure all children and families are healthy and thriving; and

WHEREAS, We recognize the need to prioritize kids and invest in more prevention initiatives like home visiting and family-strengthening policies, economic supports, and community-based child abuse prevention programs at the national, state, and local levels; and

NOW, THEREFORE, I, Rusty Knox, Mayor of the Town of Davidson, do hereby proclaim April as Child Abuse Prevention Month and call upon all citizens, community agencies, faith groups, medical facilities, elected leaders and businesses to increase their participation in our efforts to support families, thereby preventing child abuse and strengthening the communities in which we live.

Proclaimed this 26th day of March 2024.

Rusty Knox
Mayor



**A PROCLAMATION
National Donate Life Month**

WHEREAS, National Donate Life Month is celebrated every April. It features local and national activities to educate and encourage Americans to register as donors and consider living donation, as well as to celebrate those who have saved and healed lives through the gift of donation; and

WHEREAS, Organ, eye, and tissue donations are life-giving acts of compassion to those in need; and

WHEREAS, More than 100,000 individuals are waiting for lifesaving organ transplants; and

WHEREAS, More than 46,000 organ transplants from 23,000 donors brought new life to patients and their families in 2023; and

WHEREAS, More than 2.5 million tissue transplants heal lives each year; and

WHEREAS, North Carolinians can personally authorize their donation when applying for or renewing their licenses or ID cards at the Department of Motor Vehicles or online at www.donatelifenc.org; and

WHEREAS, Healthcare professionals, volunteers, educators, government agencies, faith-based and community groups, and private organizations can advocate to boost the number of organ, eye, and tissue donors throughout North Carolina.

NOW, THEREFORE, I, Mayor Rusty Knox of the Town of Davidson, do hereby proclaim April 2024 as Donate Life Month and support all people in leading healthy, productive, and successful lives, and encourage residents to consider giving the precious gift of life by becoming registered organ, eye, and tissue donors.

Proclaimed this 26th day of March 2024.

Rusty Knox
Mayor



February 13, 2024

**SECOND TUESDAY MEETING
TOWN OF DAVIDSON BOARD OF COMMISSIONERS**

The Town of Davidson Board of Commissioners held its regularly scheduled meeting on Tuesday, February 13, 2024 in the Town Hall and Community Center Board Room. Present were Mayor Rusty Knox, Commissioners Ryan Fay, Tracy Mattison-Brandon, Autumn Rierson Michael, and Steve Justus. Town Manager Jamie Justice, Town Attorney Karen Wolter, and Town Clerk Betsy Shores were also present.

- **CALL TO ORDER**

Mayor Knox called the meeting to order at 6:00 p.m.

- **ANNOUNCEMENTS/PROCLAMATION**

Communications Director Jessica Eggimann Johnson announced the following:

Registration for the 2024 Civics 101 program is open. This ten-week educational course is open to those who live or work within Davidson's town limits or within the extra-territorial jurisdiction (ETJ), who are 18 and older, and who have not taken the course previously. There is no cost to attend. Those who qualify and are interested in participating in either the morning or evening sessions should complete the registration form by the February 15, 2024, deadline.

Road closure from Duke Energy will be doing work requiring road closures on February 20-21. There will be two routes around the closure with the street blocked at Hamilton St @ Jetton St. and Park Dr @ Jetton St and Davidson Gateway @ Jetton St. There will be someone at Jetton and Davidson Gateway to allow local traffic into Central Park Cr. and the storage units. This is currently planned to be a 9:00 a.m. to 4:00 p.m. closure for each day.

The Davidson Police Department will host a Community Awareness Event with the Charlotte FBI Civil Rights Division on Tuesday, February 20, 2024, from 6:00 p.m. – 7:30 p.m. in the Davidson Town Hall & Community Center Auditorium located at 251 South Street. No RSVP is necessary to attend. All members of the Davidson community are welcome and encouraged to attend this educational presentation and Q&A session. Members of the FBI Charlotte's Civil Rights team will explore how the FBI works to protect fundamental rights, with a focused discussion on hate crimes, or violations of rights motivated by bias against an aspect of the victim's identity, such as their race, gender, sexual orientation, or disability.

The Davidson Parks and Recreation Department is updating their Master Plan. Idea boards for the 2024 Master Plan are currently being showcased on the main level of the Davidson Town Hall and

Community Center located at 251 South Street. Staff will gather input from residents at various locations and public events held in Town. The survey will remain open through Wednesday, February 21.

Davidson Parks & Recreation is getting ready to announce the 2024 Summer Camp Season! The Town hosts twelve weeks filled with programming for all ages varying from sewing classes to tennis camp and more! Resident registration begins Friday, February 23 and non-resident registration opens on Friday, March 1.

The 2024 Mayor's fitness challenge will take place for six weeks from April 7 – May 19. The Town of Davidson will once again join the Huntersville and Cornelius for the fourth year in a row. The goal for this year's challenge will be for each town to have the most active minutes collectively each week. At the end of the six weeks, the town with the highest average total of active minutes will be awarded the Fittest Community trophy. Registration for this year's fitness challenge opens March 4.

Town Manager Justice announced Town Clerk Betsy Shores has earned the designation of Master Municipal Clerk (MMC), awarded by the International Institute of Municipal Clerks (IIMC), Inc. IIMC grants the MMC designation only to municipal clerks who complete demanding education requirements; and have a record of significant contributions to their local government, community, and state.

Mayor Knox provided the following update on **the status of the candidate selection for the vacancy on the Board of Commissioners.**

"The Board received numerous submissions from residents expressing interest in the vacant Commissioner seat. We are grateful for the community's willingness to serve. We recognize there is a sense of urgency to promptly fill this seat before the budget season and to ensure the continuity of significant Town projects. However, we would like to emphasize the importance of taking time for thoughtful deliberation in selecting the individual who will best serve the residents of Davidson in this capacity. The appointed nominating committee is currently reviewing and evaluating these submissions and aims to present a recommendation to the Town Board for their approval of the appointment in the upcoming weeks."

Mayor Knox read a proclamation for **National Black History Month.**

- **CHANGES/ADOPTION OF THE AGENDA**

No changes to the agenda.

Commissioner Mattison-Brandon made a motion to adopt the agenda. The motion passed unanimously (4-0).

- **BUSINESS ITEMS**

(a) Town Manager Justice reviewed the **Town Response on January 20-21, 2024 involving the Davidson Police** capturing a suspect that was wanted from Iredell County. Some residents

expressed concern about the police response and delay in communicating with the community. At the January 23 Board of Commissioners meeting, the Board requested a review from the Town Manager and the Police Chief regarding the incident and the town's response. The charge from the Board was to conduct a review of the incident including what went right and opportunities for improvement including, but not limited to, a review of our processes and protocols to better understand the response times and communications with residents in emergency situations.

(b) Principal Planner Trey Akers provided an update on the **implementation of the Davidson Comprehensive Plan**. Adopted in January 2020 following a 12-month public engagement process, the Davidson Comprehensive Plan serves as the town's long-range vision and guiding framework for the next 30 years. The plan contains sets of goals and policies intended to achieve the community's vision and features 218 Action Items and Key Metrics to implement the plan. These measures are updated annually and reflected in the Implementation Guidebook, a companion document to the Comprehensive Plan that displays progress. 2023 marked the first year in which Key Metrics were reported; Action Items have been tracked since 2020. To date, the town has completed nearly a quarter of all Action Items (22.8%), with another 41.6% in progress. At nearly two-thirds of all Action Items addressed thus far, this tally represents an appropriate total given the typical life cycle of comprehensive plan (they're updated about every 10 years). By establishing benchmarks and evaluating implementation efforts, the town informs future decisions using the best available data. The materials provided at the meeting will help inform discussions at the upcoming Strategic Plan retreat in late February.

(c) Assistant Town Manager Austin Nantz reviewed a draft Affordable Housing Eligibility Policy. The Town is working to establish policies around specific programs and procedures to ensure consistency, fairness, and alignment with the Affordable Housing Needs Assessment Implementation Strategy. Per the affordable housing deed restrictions, the Town works to establish the area median income for all buyers of homes within the Town's affordable housing inventory. The intention with this policy is to establish clear and consistent parameters for the program to ensure a fair and seamless process for applicants. The Board Commissioners will consider approval of the Affordable Housing Eligibility Policy through the consent agenda at the February 27 board meeting.

(d) Project Manager Doug Wright reviewed a proposal to install an accessible kayak launch at Parham Park, located in the southwest area of Davidson on Lake Cornelius. Duke Power reached out to the Town regarding a federal requirement that they must provide a recreational amenity and expressed an interest in partnering with the Town on this facility through a proposed Memorandum of Agreement (MOA). We have a conceptual plan and cost estimate from our consultant, and Duke proposes to be responsible for half the cost of the project. The Board Commissioners will consider approval of the MOA with Duke Power through the consent agenda at the February 27 board meeting.

- **SUMMARIZE MEETING ACTION ITEMS**

Town Manager Justice summarized the meeting action items.

- **CLOSED SESSION**

Commissioner Rierson Michael made a motion to move to closed session per NCGS §143-318.11 (a) (3) – Consult with Attorney and invite Dave Cable and Ed Harris from the Davidson Lands Coser to attend a portion of the closed session at 7:17 p.m. The motion passed unanimously (4-0).

Commissioner Mattison Brandon made a motion to end the closed session and return to open session at 8:45 p.m. The motion passed unanimously (4-0).

- **ADJOURN**

Commissioner Fay made a motion to adjourn the meeting. The motion passed unanimously (4-0).

The meeting adjourned at 8:47 p.m.

Attest:

Elizabeth K. Shores
Town Clerk

Rusty Knox
Mayor

DRAFT



February 27, 2024

**FOURTH TUESDAY MEETING
TOWN OF DAVIDSON BOARD OF COMMISSIONERS**

The Town of Davidson Board of Commissioners held its regularly scheduled meeting on Tuesday, February 27, 2024 in the Town Hall and Community Center Board Room. Present were Mayor Rusty Knox, Commissioners Ryan Fay, Tracy Mattison-Brandon, Autumn Rierson Michael, and Steve Justus. Town Manager Jamie Justice, Town Attorney Karen Wolter, and Town Clerk Betsy Shores were also present.

- **CALL TO ORDER**

Mayor Knox called the meeting to order at 6:00 p.m.

- **ANNOUNCEMENTS**

Communications Director Jessica Eggimann Johnson announced the following:

The 2024 Mayor's fitness challenge will take place for six weeks from April 7 – May 19. The Town of Davidson will once again join the Huntersville and Cornelius for the fourth year in a row. The goal for this year's challenge will be for each town to have the most active minutes collectively each week. At the end of the six weeks, the town with the highest average total of active minutes will be awarded the Fittest Community trophy. Registration for this year's fitness challenge opens March 4.

The Town of Davidson's ReadDavidson committee is once again partnering with the Davidson Public Library, Main Street Books, Davidson College, and our local avid readers in the annual Community Read. The 2024 Community Read theme is 'Food as a Connector.' In addition to several age-appropriate events correlating with the 2024 Community Read titles, the Town of Davidson and the ReadDavidson Committee will host Saucy Girl Taco Truck on Monday, March 18 from 5:00 p.m. – 7:00 p.m. Delicious items (including vegetarian and gluten free options!) will be available for purchase, showcasing how food can connect us all! This event is open to the entire community and will be on the lawn here at the Davidson Town Hall & Community Center (251 South Street).

The Town of Davidson will soon be launching its new parking app, ParkDavidson to assist visitors and residents with locating available parking in Town. This responsive transportation solution is a direct result of citizen input from the Downtown Small Area Plan and will be available for download at no cost in the Apple Store and for Androids next month.

- **CHANGES/ADOPTION OF THE AGENDA**

No changes to the agenda.

Commissioner Justus made a motion to adopt the agenda. The motion passed unanimously (4-0).

- **PUBLIC COMMENT**

The public comment period opened at 6:02 p.m. and closed at 6:16 p.m. Four people spoke during the public comment period.

Bill Fountain spoke about the school system.

Steve Sonnenberg spoke about taxes, the climate action plan, and recent anti-Semitic bomb threats.

John Brockway and Polly Brockway spoke about the proposed greenway easement and its impact to their property.

- **CONSENT AGENDA**

Approval of January Draft Meeting Minutes

Adoption of Ordinance 2024-02 Amending Chapter 30 of the Municipal Code, Surface Water Pollution Control Ordinance

Approval of Tax Levy Adjustments

Approval of Resolution 2024-01 Calling a Public Hearing for the Proposed Extension of General Obligation Bond Orders

Approval of Resolution 2024-02 Support of NCDOT Adding a Portion of June Washam Road to the State Maintenance System

Approval of Resolution 2024-03 Direct the Clerk to Investigate a Voluntary Contiguous Annexation Petition of 21221 Potts Street

Approval of Amendment to the 2024 Meeting Schedule

Approval of Affordable Housing Eligibility Policy

Approval of Duke Energy Grant Agreement for Parham Park

Approval of Town of Davidson FY23 UASI Grant Acceptance

- **BUSINESS ITEMS**

(a) Transportation Planner Andrew Golden presented the **Annual Mobility and Vision Zero Committee Recommendations** for new projects and prioritization. The Mobility Plan is a local comprehensive transportation plan that provides a town-wide vision and coordinated recommendations for multi-modal travel and access within and through town. The Mobility Plan was adopted by the Board of Commissioners in August 2019. Members of the Livability Board and Planning Board form a Sub-Committee that reviews staff recommendations and provides input on the Mobility Plan and the Capital Improvement Plan.

The Vision Zero Action Plan was adopted by the Board of Commissioners in June 2023. This year, the Vision Zero Task Force merged with the Mobility Plan Sub-Committee to create the Mobility and Vision Zero Committee. This committee met in January 2024, recommending an increased focus on bicycle

improvements and Vision Zero action item implementation.

(b) Town Arborist Andrew Sileo and Dave Cable with Davidson Lands Conservancy/Trees Davidson presented an update on the **status of the town's tree canopy**, and the services and programs the arborist provides. This work is in support of the town's goal for sustainability and natural assets.

(c) The town's first Sustainability Manager, Kayla Kovach, presented an update on the **draft Climate Action Plan**. In 2020, the Town of Davidson adopted a Comprehensive Plan that included numerous sustainability and energy-related items. Between 2020 and 2022, the Davidson Board of Commissioners added sustainability as a goal to their Strategic Plan, and a municipal operations goal of carbon neutrality by 2037 was adopted. In 2021, a sustainability committee was formed, and a sustainability framework was adopted. The Town has shown dedication to sustainability and has developed several sustainability initiatives over the past few years. To maintain momentum and ensure progress towards the carbon neutrality goal, staff worked with Blue Strike Environmental to develop the plan. The Climate Action Plan provides a roadmap of goals, strategies, and actionable steps to drive emission reductions for both municipal operations and the community.

- **SUMMARIZE MEETING ACTION ITEMS**

Town Manager Justice recognized the staff members who presented and summarized the meeting action items.

- **ADJOURN**
Commissioner Rierson Michael made a motion to adjourn the meeting. The motion passed unanimously (4-0).

The meeting adjourned at 7:41 p.m.

Attest:

Elizabeth K. Shores
Town Clerk

Rusty Knox
Mayor



February 22 – 23, 2024

**2024-2025 STRATEGIC PLANNING RETREAT
TOWN OF DAVIDSON BOARD OF COMMISSIONERS**

The Town of Davidson Board of Commissioners held its Strategic Planning Retreat on Thursday, February 22 and Friday, February 23 at the Stateview Hotel, Raleigh, NC. Present were Mayor Rusty Knox and Commissioners Tracy Mattison Brandon, Ryan Fay, Autumn Rierson Michael, and Steve Justus. Town Manager Jamie Justice, Assistant Town Manager Austin Nantz, Town Clerk Betsy Shores, Communications Director Jessica Eggimann Johnson, Economic Development Director Kim Fleming, Finance Director Pieter Swart, Fire Chief Ryan Monteith, Human Resources Director Amber Levi, Parks and Recreation Director Leslie Willis, Planning Director Jason Burdette, Police Chief Kimber Davidson, Project Manager Doug Wright, and Public Works Director Jesse Bouk were also present.

- **Welcome and Introductions**

Mayor Knox opened the retreat at 8:30 a.m. on Thursday, February 22.

- **Develop the Strategic Plan with Faster Glass**

Meeting facilitator David Phillips, with Faster Glass, worked with the board of commissioners and management team to develop the 2024-2025 Strategic Plan. The retreat included team building activities, SWOT+ Exercise (Strengths, Weaknesses, Opportunities, and Threats), ICE-Q Exercise (Important, Concerned, Excited, Questions), review of the 2022-2023 Strategic Plan Goals and Statements, and building of the 2024-2025 Strategic Plan.

No actions were taken during the two-day retreat.

The retreat ended at 1:30 pm on Friday, February 23.

Attest:

Elizabeth K. Shores
Town Clerk

Rusty Knox
Mayor



CERTIFICATE OF SUFFICIENCY


21221 Potts Street (Parcel #00320511C)

To the Board of Commissioners of the Town of Davidson, North Carolina:

I, Elizabeth K. Shores, do hereby certify that I have investigated the attached petition and hereby make the following findings:

- a. The petition from CC Davidson Owner, LLC contains an adequate property description of the area proposed for annexation.
- b. The area described in the petition is contiguous to the Town of Davidson primary corporate limits, as defined by G.S. 160A-31.
- c. The petition is signed by and includes addresses of all owners of real property lying in the area described therein.
- d. The parcel subject to this Annexation Petition is already subject to the Town of Davidson's zoning jurisdiction. The owner claims all vested rights that attach to the site pursuant to all issued and valid permits.

In witness, whereof, I have hereunto set my hand and affixed the seal of the Town of Davidson, this 26th day of March, 2024.


Elizabeth K. Shores, Town Clerk





RESOLUTION 2024-04
FIXING DATE OF PUBLIC HEARING ON QUESTION
OF ANNEXATION PURSUANT TO G.S. 160A-31
21221 Potts Street (Parcel #00320511C)

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the Board of Commissioners has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the Town Clerk as to the sufficiency of the petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Davidson, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Davidson Town Hall and Community Center in the Town Hall Board Room on Tuesday, April 23, 2024 at 6:00 p.m.

Section 2. The area proposed for annexation is described as follows:

(See page 2 for Mets and Bounds Description)

*Section 3. Notice of the public hearing shall be published in the Charlotte Observer, a newspaper having general circulation in the Town of Davidson, at least ten (10) days prior to the date of the public hearing.

Adopted on the 26th day of March, 2024

Attest:

Rusty Knox
Mayor

Elizabeth K. Shores
Town Clerk

Potts Street Annexation Description

Lying and being situate in Mecklenburg County, North Carolina and being more particularly described as follows:

Commencing from an existing 1" iron pipe marking the southwestern corner of Kevin P. & Mary C. Connery, now or formerly, as described in Deed Book 31356 at Page 443 in the office of the Mecklenburg County Public Registry and also marking the southeastern corner of Brian C. & Tyler M. Helfrich, now or formerly, as described in Deed Book 32210 at Page 223 aforesaid registry; Thence from the point of commencement North 68 degrees 58 minutes 11 seconds West, a distance of 114.56 feet to a point located on the southerly line of Luke & Leigh Huther, now or formerly, as described in Deed Book 32263 at Page 301; said point being the point of beginning; Thence from the point of beginning and leaving the line of Luke & Leigh Huther and with a new line, South 19 degrees 22 minutes 31 seconds West, a distance of 658.31 feet to a point located on the northern line of Davidson Acquisition Company, LLC., now or formerly, as described in Deed Book 29594 at Page 700; Thence with the line of Davidson Acquisition Company, LLC, North 69 degrees 40 minutes 07 seconds West, a distance of 140.05 feet to a point on the easterly line of YMCA of Charlotte & Mecklenburg, now or formerly, as described in Deed Book 4313 at Page 155; Thence with the line of YMCA of Charlotte & Mecklenburg, North 22 degrees 29 minutes 49 seconds East, a distance of 138.42 feet to a 1" bent rod marking the southeastern corner of Wilbur M. Houston, now or formerly, and being Mecklenburg County parcel ID 00320526; Thence leaving the line of YMCA of Charlotte and Mecklenburg and with the line of Wilbur M. Houston, North 07 degrees 37 minutes 04 seconds East, a distance of 536.18 feet to a point; Thence continuing with the line of Wilbur M. Houston and also with the lines of Daniel C. & Kathryn L. C. Barr, now or formerly, as described in Deed Book 33317 at Page 722 and Davidson Presbyterian Church, now or formerly, as described in Deed Book 1063 at Page 17, South 68 degrees 55 minutes 22 seconds East, a distance of 226.40 feet to an existing 1" iron pipe marking the southeastern corner of Davidson Presbyterian Church, now or formerly, as described in Deed Book 31244 at Page 476 and also marking the southwestern corner of the aforementioned Luke & Leigh Huther; Thence with the line of Luke & Leigh Huther, South 68 degrees 58 minutes 11 seconds East, a distance of 15.46 to the point and place of beginning; and having an area of 2.671 acres, more or less.

AMENDMENT TO THE BUDGET ORDINANCE

BE IT ORDAINED by the Governing Board of the Town of Davidson, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2024:

Section 1: To amend the General Fund, the appropriations are to be changed as follows:

<u>Acct. No.</u>	<u>Account</u>	<u>Decrease</u>	<u>Increase</u>
10-40-9910-702	Debt Service – 2023 GO Bonds		\$392,848.00

Budgeted expenditures will fund debt service on GO Bonds issued in November, 2023.

Section 2: To amend the General Fund, the estimated revenues are to be changed as follows:

<u>Acct. No.</u>	<u>Account</u>	<u>Decrease</u>	<u>Increase</u>
10-00-3990-980	Fund Balance Appropriated		\$392,848.00

The Town will use committed fund balance to fund debt service on G.O. Bonds.

Section 3: Copies of this budget amendment shall be furnished to the Clerk of the Governing Board, and to the Budget Officer and the Finance Officer for their direction.

Adopted this 26th day of March, 2024

By: _____

Rusty Knox

Mayor

ATTEST:

Elizabeth K. Shores

Town Clerk

Executive Summary

The Executive Summary is a summation of this agreement and is not intended to be used as the agreement between the Department (North Carolina Department of Transportation) and the Party (Entity).

Entity: Town of Davidson

County: Mecklenburg

TIP: BL-0096

Project: Beaty Street Shared Use Path

Scope: Construct 10-foot shared-use path along east side of Beaty Street. The 0.9 mile facility will provide pedestrian and bike access to parks, schools and businesses.

Eligible Activities:

PE	50812.1.1	Design
		Environmental
ROW	50812.2.1	ROW Acquisition
		Utility Relocation
CON	50812.3.1	Construction
OTHER		
FEDERAL-AID	5081201	

Fund Source	Federal Funds Amount	Reimbursement Rate	Non-Federal Match \$	Non-Federal Match Rate
Transportation Alternatives Program	\$2,095,200	60 %	\$1,396,800	40 %
Total Available Funding		\$3,492,000		

Responsibility: The Town of Davidson shall be responsible for all aspects of the project.

NORTH CAROLINA

**LOCALLY ADMINISTERED PROJECT -
FEDERAL**

MECKLENBURG COUNTY

DATE: 3/1/2024

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: BL-0096

AND

WBS Elements: PE 50812.1.1

ROW 50812.2.1

TOWN OF DAVIDSON

CON 50812.3.1

OTHER FUNDING:

FEDERAL-AID NUMBER: 5081201

CFDA #: 20.205

Total Funds [NCDOT Participation] \$2,095,200

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the Town of Davidson, hereinafter referred to as the "Municipality".

WITNESSETH:

WHEREAS, the Infrastructure Investment and Jobs Act (IIJA) allows for the allocation of federal funds to be available for certain specified transportation activities; and,

WHEREAS, the Municipality has requested federal funding for Beaty Street Shared Use Path, hereinafter referred to as the Project, in Mecklenburg County, North Carolina; and,

WHEREAS, subject to the availability of federal funds, the Municipality has been designated as a recipient to receive funds allocated to the Department by the Federal Highway Administration (FHWA) up to and not to exceed the maximum award amount of \$2,095,200 for the Project; and,

WHEREAS, the Department has agreed to administer the disbursement of said funds on behalf of FHWA to the Municipality for the Project in accordance with the Project scope of work and in accordance with the provisions set out in this Agreement; and,

WHEREAS, the Department has programmed funding in the approved Transportation Improvement Program for the Project; and,

WHEREAS, the governing board of the Municipality has agreed to participate in certain costs and to assume certain responsibilities in the manner and to the extent as hereinafter set out; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly including, but not limited to, the following applicable legislation: General Statutes of North Carolina (NCGS) Section 136-66.1, Section 136-71.6, Section 160A-296 and 297, Section 136-18, Section 136-41.3 and Section 20-169, to participate in the planning, construction and/or implementation of the Project approved by the Board of Transportation.

NOW, THEREFORE, this Agreement states the promises and undertakings of each party as herein provided, and the parties do hereby covenant and agree, each with the other, as follows:

1. GENERAL PROVISIONS

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT

All parties to this Agreement, including contractors, subcontractors, and subsequent workforces, associated with any work under the terms of this Agreement shall provide reports as required by the Federal Funding Accountability and Transparency Act (FFATA) for this Project.

AGREEMENT MODIFICATIONS

Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all parties by means of a Supplemental Agreement.

LOCAL PUBLIC AGENCY TO PERFORM ALL WORK

The Municipality shall be responsible for administering all work performed and for certifying to the Department that all terms set forth in this Agreement are met and adhered to by the Municipality and/or its contractors and agents. The Department will provide technical oversight to guide the Municipality. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this Agreement to other parties or entities.

PERSON IN RESPONSIBLE CHARGE

The Municipality shall designate a person or persons to be in responsible charge of the Project, in accordance with Title 23 of the Code of Federal Regulations, Part 635.105. The person, or persons, shall be expected to:

- Administer governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;

- Maintain knowledge of day to day project operations and safety issues;
- Make or participate in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visit and review the project in accordance with the project scope and scale;
- Review financial processes, transactions and documentation to reduce the likelihood of fraud, waste, and abuse;
- Direct project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation; and
- Be aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The person in responsible charge must be a full-time employee of the Municipality, but the duties may be split among several employees, if necessary.

COMPLIANCE WITH STATE/FEDERAL POLICY

The Municipality, and/or its agent, including all contractors, subcontractors, or sub-recipients shall comply with all applicable Federal and State policies and procedures, stated both in this Agreement and in the Department's guidelines and procedures, including the *Local Programs Management Handbook*.

FAILURE TO COMPLY - CONSEQUENCES

Failure on the part of the Municipality to comply with any of the provisions of this Agreement will be grounds for the Department to terminate participation in the costs of the Project and, if applicable, seek repayment of any reimbursed funds.

2. SCOPE OF PROJECT

The Project consists of Construct 10-foot shared-use path along east side of Beaty Street. The 0.9 mile facility will provide pedestrian and bike access to parks, schools and businesses.

The Department's funding participation in the Project shall be restricted to the following eligible items:

- Design
- Environmental Documentation
- ROW Acquisition
- Construction

as further set forth in this Agreement.

3. FUNDING

PROGRAMMING AND AUTHORIZATION OF FEDERAL FUNDS

The funding currently programmed for the project in the State Transportation Improvement Program (STIP) is Transportation Alternatives Program. The funding source may be modified with the coordination and approval of the respective Metropolitan Planning Organization (MPO) and/or the Department prior to authorization of funds. The Department will authorize and reimburse federal funding based on the type of federal funding that is programmed in the STIP at the time of the authorization request. The Department will notify the Municipality of the type of federal funds authorized by issuing a Technical Amendment – Funds Authorization letter. A modification in the source of funds will have no effect on project responsibilities outlined in this agreement.

REIMBURSEMENT FOR ELIGIBLE ACTIVITIES

Subject to compliance by the Municipality with the provisions set forth in this Agreement and the availability of federal funds, the Department shall reimburse 60% of eligible expenses incurred by the Municipality up to a maximum amount of Two Million Ninety Five Thousand Two Hundred Dollars (\$2,095,200), as detailed below. The Municipality shall provide the non-federal match, as detailed in the FUNDING TABLE below, and all costs that exceed the total available funding.

FUNDING TABLE

Fund Source	Federal Funds Amount	Reimbursement Rate	Non-Federal Match \$	Non-Federal Match Rate
Transportation Alternatives Program	\$2,095,200	60%	\$1,396,800	40%
Total Available Funding		\$3,492,000		

WORK PERFORMED BY NCDOT

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, during any phase of the delivery of the Project, shall reduce the funding available to the Municipality under this Agreement. The Department will set aside, but is not limited to, ten percent (10%) of the total available funding, or \$349,200, to use towards the costs related to review and oversight of this Project. These costs may include but are not limited to: review and approval of plans, environmental documents, contract proposals, and engineering estimates; performance of any phase of work, for example, contract administration or construction engineering and inspection; oversight of any phases; or any other items as needed to ensure the Municipality's appropriate compliance with state and federal regulations.

In the event that the Department does not utilize all the set-aside funding, then those remaining funds will be available for reimbursement to the Municipality at the above reimbursement rate. For all costs of work performed on the Project, whether incurred by the Municipality or by the Department, the Municipality shall provide the non-federal match. The Department will bill the Municipality for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the total available funding.

4. PERIOD OF PERFORMANCE

The Municipality has five (5) years to complete all work outlined in the Agreement from the date of authorization of Federal funds for the initial phase of work. Completion for this Agreement is defined as completion of all construction activities or implementation activities, acceptance of the project, and submission of a final reimbursement package to the Department.

If additional time is needed to complete the Project, then a supplemental agreement must be executed. The Department may allow up to three additional months for submission of final reimbursement package by the Municipality, without entering into a supplemental agreement. The Department and/or FHWA reserves the right to revoke the funds awarded if the Municipality is unable to meet milestone dates included herein.

5. PRELIMINARY ENGINEERING AUTHORIZATION

If Preliminary Engineering is an eligible expense, then upon receipt of an executed agreement, the Department will authorize Preliminary Engineering funds and shall notify the Municipality, in writing, once funds have been authorized and can be expended. The Municipality shall not initiate any work, nor solicit for any professional services prior to receipt of written authorization

from the Department to proceed. Any work performed, or contracts executed, prior to receipt of written authorization to proceed will be ineligible for reimbursement.

6. PROFESSIONAL AND ENGINEERING SERVICES

The Municipality shall comply with the policies and procedures of this provision if the Municipality is requesting reimbursement for the Preliminary Engineering contract or the Construction Contract Administration / Construction Engineering and Inspection contract.

PROCUREMENT POLICY

When procuring professional services, the Municipality must adhere to Title 2 Code of Federal Regulations Part 200; Title 23 of the Code of Federal Regulations, Part 172; Title 40 United States Code, Chapter 11, Section 1101-1104; NCGS 143-64.31; and the Department's *Policies and Procedures for Major Professional or Specialized Services Contracts*. Said policies and standards are incorporated in this Agreement by reference at www.fhwa.dot.gov/legsregs/legislat.html and www.ncleg.net/gascripts/Statutes/Statutes.asp.

- The Municipality shall ensure that a qualified firm is obtained through an equitable selection process, and that prescribed work is properly accomplished in a timely manner and at a just and reasonable cost.
- All Professional Services Firms shall be pre-qualified by the Department in the Work Codes advertised.
- A pre-negotiation audit will be conducted by the Department's External Audit Branch. The Municipality shall not execute a consultant contract until the Department's review has been completed.

SMALL PROFESSIONAL AND ENGINEERING SERVICES FIRMS REQUIREMENTS

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Small Professional Services Firms (SPSF). This policy conforms with the SPSF Guidelines as approved by the North Carolina Board of Transportation.

- The Municipality shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.

- If the Municipality fails to comply with these requirements, the Department will withhold funding until these requirements are met.

WORK BY ENTITY

If the Design, Planning, Contract Administration and/or Construction Engineering and Inspection required for this project will be undertaken by the Municipality, and the Municipality requests reimbursement, then the Municipality must submit a request and supporting documentation to the Department for review and approval, prior to any work being initiated by the Municipality.

7. PLANNING / ENVIRONMENTAL DOCUMENTATION

The Municipality shall prepare the environmental and/or planning document, including any environmental permits, needed to construct the Project, in accordance with the National Environmental Policy Act (NEPA) and all other appropriate environmental laws and regulations. All work shall be performed in accordance with Departmental procedures and guidelines. Said documentation shall be submitted to the Department for review and approval.

- The Municipality shall be responsible for preparing and filing with all proper agencies the appropriate planning documents, including notices and applications required to apply for those permits necessary for the construction of the desired improvements. Copies of approved permits should be forwarded to the Department.
- The Municipality shall advertise and conduct any required public hearings.
- If any permit issued requires that action be taken to mitigate impacts associated with the improvements, the Municipality shall design and implement a mitigation plan. The Department will determine if any mitigation costs are eligible for reimbursement. The Municipality shall bear all costs associated with penalties for violations and claims due to delays.
- The Municipality shall be responsible for designing an erosion control plan if required by the North Carolina Sedimentation Pollution Control Act of 1973, NCGS 113A, Article 4, incorporated in this Agreement by reference at www.ncleg.net/gascripts/Statues/Statutes.asp and obtaining those permits required thereby in order to construct the Project. During the construction of the improvements, the Municipality, and its contractors and agents, shall be solely responsible for compliance with the provisions of said Act and the plan adopted in compliance therewith.

8. DESIGN

CONTENT OF PLAN PACKAGE

The Municipality, and/or its agent, shall prepare the Project's plans, specifications, and a professional estimate of costs (PS&E package), in accordance with the Department's guidelines and procedures, and applicable Federal and State standards. All work shall be submitted to the Department for review and approval. The plans shall be completed to show the design, site plans, landscaping, drainage, easements, and utility conflicts.

9. RIGHT OF WAY / UTILITY AUTHORIZATION

If the costs of right of way acquisition or utility relocation are an eligible expense, the Municipality shall submit a letter of request to the Department to authorize and set up right of way and/or utility funding. The acquisition for right of way, construction easements, and/or utility relocation may be undertaken only after the Municipality receives written authorization from the Department to proceed.

10. PROJECT LIMITS AND RIGHT OF WAY (ROW)

The Municipality shall comply with the policies and procedures of this provision regardless of whether the Municipality is requesting reimbursement for the Right of Way phase of the Project.

SPONSOR PROVIDES ROW

The Municipality, at no liability whatsoever to the Department, shall be responsible for providing and/or acquiring any required ROW and/or easements for the Project.

ROW GUIDANCE

The Municipality shall accomplish all ROW activities, including acquisition and relocation, in accordance with the following: Title 23 of the Code of Federal Regulations, Part 710, Subpart B and Title 49 of the Code of Federal Regulations, Part 24, [Uniform Act] incorporated by reference at www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm; NCGS, Chapter 133, Article 2, Sections 133-5 through 133-18, Relocation Assistance, incorporated by reference at www.ncleg.net/gascripts/Statutes/Statutes.asp; and the North Carolina Department of Transportation Right of Way Manual.

APPRAISAL

The Municipality shall submit the appraisal to the Department for review and approval in accordance with Departmental policies and procedures.

CLEARANCE OF PROJECT LIMITS / ROW

The Municipality shall remove and dispose of all obstructions and encroachments of any kind or character (including hazardous and contaminated materials) from said ROW, with the exception that the Municipality shall secure an encroachment agreement for any utilities (which shall remain or are) to be installed within the Department's ROW, or follow other applicable approval process, for utilities within the Municipality's ROW. The Municipality shall indemnify and save harmless the Department, Federal Highway Administration, and the State of North Carolina, from any and all damages and claims for damages that might arise on account of said right of way acquisition, drainage, and construction easements for the construction of said Project. The Municipality shall be solely responsible for any damages caused by the existence of said material now and at any time in the future and will save the Department harmless from any legal actions arising as a result of this contaminated and/or hazardous material and shall provide the Department with documentation proving the proper disposal of said material.

RELOCATION ASSISTANCE

The Municipality shall provide relocation assistance services and payments for families, businesses, and non-profit organizations being displaced by the Project in full accordance with the Federal relocation requirements of Title 49 Code of Federal Regulations, Part 24 [Uniform Act], as amended. Relocation assistance services and payments may be accomplished by contract with any other municipal corporation, or State or Federal agency, rendering such services upon approval by the Department and Federal Highway Administration.

11. UTILITIES

The Municipality, and/or its agent, at no liability to the Department, shall relocate, adjust, relay, change or repair all utilities in conflict with the Project, regardless of ownership. All utility work shall be performed in a manner satisfactory to and in conformance with State and Federal rules and regulations, prior to Municipality beginning construction of the project. This Agreement does not modify or supersede any existing Utility Encroachment Agreements that may be in place.

12. RIGHT OF WAY / UTILITY / RAILROAD CERTIFICATION

The Municipality, upon acquisition of all right of way/property necessary for the Project, relocation of utilities, and coordination with the railroad shall provide the Department all required documentation (deeds/leases/easement/plans/agreements) to secure certification. Certification is only issued after all ROW is in public ownership or property is publicly accessible by a legal document; utilities in conflict with the project are relocated, or a plan for their relocation during construction has been approved; and coordination with the railroad (if applicable) has occurred and been documented.

13. CONTRACT PROPOSAL AND ENGINEER'S ESTIMATE

CONTRACT PROPOSAL

The Municipality shall develop a contract proposal that will be advertised for bids. The proposal shall comply with NCDOT Specifications and Standard Drawings as applicable to the Project. The proposal shall also contain provisions, as applicable, per Title 23 Code of Federal Regulations 633 and 635 to include, but not be limited to: FHWA 1273, Buy America, Davis-Bacon Wage Rates, Non-discrimination, DBE Assurances, Contractor Certification regarding suspension and debarment, and other provisions as required by the Department.

ENGINEER'S ESTIMATE

The Municipality shall develop an itemized engineer's estimate to show items referenced to the NCDOT Standard Specifications, if applicable, along with units and unit price. The engineer's estimate will be used as the basis for comparing bids received.

14. CONSTRUCTION AUTHORIZATION

The Municipality shall submit the required environmental and/or planning document, ROW certification, final construction plans, total contract proposal, and an estimate of Project costs (final PS&E package) to the Department for review and approval.

- After approval of all documentation, the Department will request construction authorization from the Federal Highway Administration.
- The Municipality shall not advertise for bids prior to receiving written construction authorization from the Department.

15. CONTRACTOR PROCUREMENT

ADVERTISE FOR BIDS

Upon receipt of written construction authorization from the Department, the Municipality may advertise the Project. The Municipality shall follow applicable Federal and/or State procedures pertaining to the advertisement of the Project, bid opening, and award of the contract, according to Title 2 of the Code of Federal Regulations, Part 200 and Title 23 of the Code of Federal Regulations, Part 633 and Part 635, incorporated by reference at www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm; and NCGS, Chapter 143, Article 8 (Public Contracts), incorporated by reference at www.ncleg.net/gascripts/Statutes/Statutes.asp.

CONSTRUCTION CONTRACTOR REQUIREMENTS

All Contractors submitting bids on the project shall be pre-qualified by the Department. All proposed subcontractors must be pre-qualified before construction work begins. Any subcontractors who are proposed to meet the Disadvantaged Business Enterprise goal must be certified by the Department.

CONSTRUCTION SUBCONTRACTOR REQUIREMENTS

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Disadvantaged Business Enterprises (DBEs), or as required and defined in Title 49 of the Code of Federal Regulations, Part 26 and the North Carolina Administrative Code. These provisions are incorporated into this Agreement by reference <https://connect.ncdot.gov/projects/Contracts/Pages/LGA-Projects.aspx>.

- The Municipality shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.
- If the Municipality fails to comply with these requirements, the Department will withhold funding until these requirements are met.

AWARDING CONTRACT

After the advertisement of the Project for construction bids, the Municipality shall request concurrence from the Department to award the construction contract by submitting a letter along

with tabulated bids received depicting Disadvantaged Business Enterprises (DBE) goals, and a resolution recommending award of the Project to the lowest responsible, responsive bidder. The Department will review the submitted information and provide written approval to the Municipality prior to the contract being awarded by the Municipality.

DELAY IN PROCUREMENT

In the event the Project has not been let to contract within six (6) months after receiving construction authorization from the Department, the Municipality shall be responsible for documenting to the Department justification for project delay and that the Project remains in compliance with the terms of this Agreement, the approved plans and specifications, and current codes.

FORCE ACCOUNT

Force account work is only allowed when there is a finding of cost effectiveness for the work to be performed by some method other than a contract awarded by a competitive bidding process, or there is an emergency. Written approval from the Department is required prior to the use of force account by the Municipality. Federal Highway Administration regulations governing Force Account are contained in Title 23 Code of Federal Regulations, Part 635.201, Subpart B; said policy being incorporated in this Agreement by reference www.fhwa.dot.gov/legsregs/directives/cfr23toc.htm. North Carolina General Statutes governing the use of Force Account, Chapter 143, Article 8 (Public Contracts) can be found at www.ncleg.net/gascripts/Statutes/Statutes.asp.

16. CONSTRUCTION

The Municipality, and/or its agents shall construct the Project in accordance with the plans and specifications of the Project as filed with, and approved by, the Department. During the construction of the Project, the procedures set out below shall be followed:

CONSTRUCTION CONTRACT ADMINISTRATION

The Municipality shall comply with the NCDOT Construction Manual as referenced at <http://www.ncdot.org/doh/operations/dp%5Fchief%5Feng/constructionunit/formsmanuals/construction/>, which outlines the procedures for records and reports that must be adhered to in order to obtain uniformity of contract administration and documentation. This includes, but is not limited to, inspection reports, material test reports, materials certification, documentation of quantities,

project diaries, and pay records. The Municipality, and/or its agent, shall perform the construction engineering, sampling and testing required during construction of the Project, in accordance with Departmental procedures, including the Department's Guide for Process Control and Acceptance Sampling and Testing. The Municipality shall document that said compliance was accomplished in accordance with State and Federal procedures, guidelines, standards and specifications.

RETAINAGE

The Municipality shall not retain any portion of a payment due the contractor.

SIGNAGE

The Municipality shall provide and maintain adequate signage and other warning devices for the protection of the public in accordance with the approved traffic control plans for the Project and the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways, or any subsequent revision of the same, published by the Federal Highway Administration and effective at the time of award of the contract.

SITE LAYOUT

The Municipality shall be responsible for ensuring that all site layout, construction work, and Project documentation are in compliance with applicable city, state and federal permits, guidelines, and regulations, including American Association of State Highway and Transportation Officials (AASHTO) guidelines and Americans with Disabilities Act (ADA) Standards for Accessible Design (www.usdoj.gov/crt/ada/stdspdf.htm).

RIGHT TO INSPECT

The Department and representatives of the Federal Highway Administration shall have the right to inspect, sample or test, and approve or reject, any portion of the work being performed by the Municipality or the Municipality's contractor to ensure compliance with the provisions of this Agreement. Prior to any payment by the Department, any deficiencies inconsistent with approved plans and specifications found during an inspection must be corrected.

CONTRACTOR COMPLIANCE

The Municipality will be responsible for ensuring that the contractor complies with all of the terms of the contract and any instructions issued by the Department or FHWA as a result of any review or inspection made by said representatives.

CHANGE ORDERS

If any changes in the Project plans are necessary, the Department must approve such changes prior to the work being performed.

SHOP DRAWINGS

Shop Drawings shall be submitted in accordance with the approved plans and specifications and may require review by the Designer.

17. CLOSE-OUT

Upon completion of the Project, the Municipality shall be responsible for the following:

FINAL INSPECTION

The Municipality shall arrange for a final inspection by the Department. Any deficiencies determined during the final field inspection must be corrected prior to final payment being made by the Department to the Municipality. Additional inspection by other entities may be necessary in accordance with the Department's guidelines and procedures. The Municipality shall provide the Department with written evidence of approval of completed project prior to requesting final reimbursement.

FINAL PROJECT CERTIFICATION

The Municipality will provide a certification to the Department that all work performed for this Project is in accordance with all applicable standards, guidelines, and regulations.

18. MAINTENANCE

The Municipality, at no expense or liability to the Department, shall assume all maintenance responsibilities for the Beaty Street Shared Use Path, or as required by an executed encroachment agreement.

19. REIMBURSEMENT

SCOPE OF REIMBURSEMENT

Activities eligible for funding reimbursement for this Project shall include:

- Design
- Environmental Documentation
- ROW Acquisition
- Construction

REIMBURSEMENT GUIDANCE

The Municipality shall adhere to applicable administrative requirements of Title 2 Code of Federal Regulations, Part 200 (www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm) "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards." Reimbursement to the Municipality shall be subject to the policies and procedures contained in Title 23 Code of Federal Regulations, Part 140 and Part 172, which is being incorporated into this Agreement by reference at www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm. Reimbursement to the Municipality shall be subject to the guidance contained in Title 2 Code of Federal Regulations, Part 170 (<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>) and Office of Management and Budget (OMB) "Federal Funding Accountability and Transparency Act" (FFATA). Said reimbursement shall also be subject to the Department being reimbursed by the Federal Highway Administration and subject to compliance by the Municipality with all applicable federal policy and procedures.

REIMBURSEMENT LIMITS

- **WORK PERFORMED BEFORE NOTIFICATION**

Any costs incurred by the Municipality prior to written notification by the Department to proceed with the work shall not be eligible for reimbursement.

- **NO REIMBURSEMENT IN EXCESS OF APPROVED FUNDING**

At no time shall the Department reimburse the Municipality costs that exceed the total funding per this Agreement and any Supplemental Agreements.

- **UNSUBSTANTIATED COSTS**

The Municipality agrees that it shall bear all costs for which it is unable to substantiate actual costs or any costs that have been deemed unallowable by the Federal Highway Administration and/or the Department's Financial Management Division.

- **WORK PERFORMED BY NCDOT**

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, shall reduce the maximum award amount of \$2,095,200 available to the Municipality under this Agreement. The Department will bill the Municipality for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the total available funding.

- **CONSTRUCTION ADMINISTRATION**

Reimbursement for construction contract administration will be made as governed by Departmental policy that limits reimbursement for construction contract administration to no more than fifteen (15%) percent of the actual construction contract of the Project. These costs will also include any cost overruns and charges to the Project by the Department during the Construction Phase.

- **CONSTRUCTION CONTRACT UNIT PRICES**

Reimbursement for construction contract work will be made on the basis of contract unit prices in the construction contract and any approved change orders.

- **RIGHT OF WAY**

Reimbursement will be limited to the value as approved by the Department. Eligible costs for reimbursement of Right of Way Acquisition include: realty appraisals, surveys, closing costs, and the agreed upon just compensation for the property, at the reimbursement rate as shown in the FUNDING TABLE.

- **FORCE ACCOUNT**

Invoices for force account work shall show a summary of labor, labor additives, equipment, materials and other qualifying costs in conformance with the standards for allowable costs set forth in 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." Reimbursement shall be based on actual eligible costs incurred with the exception of equipment owned by the

Municipality or its Project partners. Reimbursement rates for equipment owned by the Municipality or its Project partners cannot exceed the Department's rates in effect for the time period in which the work is performed.

BILLING THE DEPARTMENT

- **PROCEDURE**

The Municipality may bill the Department for eligible Project costs in accordance with the Department's guidelines and procedures. Proper supporting documentation shall accompany each invoice as may be required by the Department. By submittal of each invoice, the Municipality certifies that it has adhered to all applicable state and federal laws and regulations as set forth in this Agreement.

Along with each invoice, the Municipality is responsible for submitting the FFATA Subrecipient Information Form, which is available at <https://connect.ncdot.gov/municipalities/Funding/Pages/default.aspx>.

- **INTERNAL APPROVALS**

Reimbursement to the Municipality shall be made upon approval of the invoice by the Department's Financial Management Division.

- **TIMELY SUBMITTAL OF INVOICES**

The Municipality may invoice the Department monthly for work accomplished, but no less than once every six (6) months to keep the Project funds active and available. If the Municipality is unable to invoice the Department, then they must provide an explanation. Failure to submit invoices or explanation may result in de-obligation of funds.

- **FINAL INVOICE**

All invoices associated with the Project must be submitted within six (6) months of the completion of construction and acceptance of the Project to be eligible for reimbursement by the Department. Any invoices submitted after this time will not be eligible for reimbursement.

20. REPORTING REQUIREMENTS AND RECORDS RETENTION

PROJECT EVALUATION REPORTS

The Municipality is responsible for submitting quarterly Project evaluation reports, in accordance with the Department's guidelines and procedures, that detail the progress achieved to date for the Project.

PROJECT RECORDS

The Municipality and its agents shall maintain all books, documents, papers, accounting records, Project records and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the Municipality shall make such materials available at its office and shall require its agent to make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of payment of the final voucher by the Federal Highway Administration, for inspection and audit by the Department's Financial Management Section, the Federal Highway Administration, or any authorized representatives of the Federal Government.

21. OTHER PROVISIONS

REFERENCES

It will be the responsibility of the Municipality to follow the current and/or most recent edition of references, websites, specifications, standards, guidelines, recommendations, regulations and/or general statutes, as stated in this Agreement.

INDEMNIFICATION OF DEPARTMENT

The Municipality agrees to indemnify and hold harmless the Department, FHWA and the State of North Carolina, to the extent allowed by law, for any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Project. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.

DEBARMENT POLICY

It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the Municipality certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

TITLE VI - CIVIL RIGHTS ACT OF 1964

The Municipality shall comply with Title VI of the Civil Rights Act of 1964, (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

OTHER AGREEMENTS

The Municipality is solely responsible for all agreements, contracts, and work orders entered into or issued by the Municipality for this Project. The Department is not responsible for any expenses or obligations incurred for the Project except those specifically eligible for the funds and obligations as approved by the Department under the terms of this Agreement.

AVAILABILITY OF FUNDS

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

IMPROPER USE OF FUNDS

Where either the Department or the FHWA determines that the funds paid to the Municipality for this Project are not used in accordance with the terms of this Agreement, the Department will bill the Municipality.

TERMINATION OF PROJECT

If the Municipality decides to terminate the Project without the concurrence of the Department, the Municipality shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the Project.

AUDITS

In accordance with 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," Subpart F – Audit Requirements, and the Federal Single Audit Act Amendments of 1996, the Municipality shall arrange for an annual independent financial and compliance audit of its fiscal operations. The Municipality shall furnish the Department with a copy of the annual independent audit report within thirty (30) days of completion of the report, but not later than nine (9) months after the Municipality's fiscal year ends.

REIMBURSEMENT BY MUNICIPALITY

For all monies due the Department as referenced in this Agreement, reimbursement shall be made by the Municipality to the Department within sixty (60) days of receiving an invoice. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with NCGS 147-86.23.

USE OF POWELL BILL FUNDS

If the other party to this agreement is a Municipality and fails for any reason to reimburse the Department in accordance with the provisions for payment hereinabove provided, NCGS 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to Municipality by NCGS 136-41.1, until such time as the Department has received payment in full.

ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth herein.

AUTHORIZATION TO EXECUTE

The parties hereby acknowledge that the individual executing the Agreement on their behalf is authorized to execute this Agreement on their behalf and to bind the respective entities to the terms contained herein and that he has read this Agreement, conferred with his attorney, and fully understands its contents.

FACSIMILE SIGNATURES

A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.

GIFT BAN

By Executive Order 24, issued by Governor Perdue, and NCGS 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Commerce, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural Resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

22. SUNSET PROVISION

All terms and conditions of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

IT IS UNDERSTOOD AND AGREED that the approval of the Project by the Department is subject to the conditions of this Agreement, and that no expenditures of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the Municipality.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

TOWN OF DAVIDSON

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Town of Davidson

Remittance Address:

DEPARTMENT OF TRANSPORTATION

BY: _____

(CHIEF ENGINEER)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (Date)



RESOLUTION 2024-05

EXTENSION OF BOND ORDER AUTHORIZING THE ISSUANCE OF \$6,000,000 GENERAL OBLIGATION MOBILITY BONDS OF THE TOWN OF DAVIDSON, NORTH CAROLINA

WHEREAS, on August 8, 2017 the Board of Commissioners of the Town of Davidson, North Carolina (the “*Board of Commissioners*”) adopted a bond order (the “*Mobility Bond Order*”) authorizing \$6,000,000 General Obligation Mobility Bonds of the Town of Davidson, North Carolina (the “*Town*”) to pay the capital costs of constructing, reconstructing, enlarging, extending, widening, paving, resurfacing, grading and improving certain streets, roads, roundabouts, intersections, pedestrian sidewalks and bicycle lanes, including traffic and safety controls, signals, markers, lighting, related landscaping and streetscaping and the cost of any related studies, plans and design related thereto; and the acquisition of land, rights-of-way in land and easements therefor; and

WHEREAS, the Mobility Bond Order took effect upon its approval by the voters of the Town at a referendum on November 7, 2017;

WHEREAS, as permitted by the Local Government Bond Act, the Town applied to the Local Government Commission to extend the Mobility Bond Order from seven years to 10 years after November 7, 2017;

WHEREAS, the Local Government Commission formally entered an order approving the Town’s request for a three-year extension of the Mobility Bond Order on February 6, 2024; and

WHEREAS, the Board of Commissioners held a public hearing on March 12, 2024 on the question of whether the maximum time period for issuing bonds under the Mobility Bond Order should be extended from seven years to 10 years after November 7, 2017;

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF DAVIDSON, NORTH CAROLINA, AS FOLLOWS:

Section 1. The maximum time period for issuing bonds under the Mobility Bond Order has been extended from seven years to 10 years after November 7, 2017.

Section 2. This order will take effect 30 days after its publication.

Rusty Knox, Mayor

STATE OF NORTH CAROLINA)
)
TOWN OF DAVIDSON) ss:

I, Elizabeth K. Shores, Town Clerk of the Town of Davidson, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of the orders titled “**EXTENSION OF BOND ORDER AUTHORIZING THE ISSUANCE OF \$6,000,000 GENERAL OBLIGATION MOBILITY BONDS OF THE TOWN OF DAVIDSON, NORTH CAROLINA**” adopted by the Board of Commissioners of the Town of Davidson, North Carolina at a regular meeting convened on the 26th day of March, 2024, as recorded in the minutes of the Board of Commissioners of the Town of Davidson, North Carolina.

WITNESS my hand and the seal of the Town of Davidson, North Carolina, this the ___ day of _____, 2024.

(SEAL)

Elizabeth K. Shores, Town Clerk
Town of Davidson, North Carolina

DRAFT



RESOLUTION 2024-06

EXTENSION OF BOND ORDER AUTHORIZING THE ISSUANCE OF \$5,000,000 GENERAL OBLIGATION GREENWAY BONDS OF THE TOWN OF DAVIDSON, NORTH CAROLINA

WHEREAS, on August 8, 2017 the Board of Commissioners of the Town of Davidson, North Carolina (the “*Board of Commissioners*”) adopted a bond order (the “*Greenway Bond Order*”) authorizing \$5,000,000 General Obligation Greenway Bonds of the Town of Davidson, North Carolina (the “*Town*”) to pay the capital costs of developing and preserving new and existing greenways, public open space and walking trails, including multi-use paths and protected bicycle lanes and the cost of any related landscaping, studies, plans and design related thereto; and the acquisition of land, rights-of-way in land and easements therefor; and

WHEREAS, the Greenway Bond Order took effect upon its approval by the voters of the Town at a referendum on November 7, 2017;

WHEREAS, as permitted by the Local Government Bond Act, the Town applied to the Local Government Commission to extend the Greenway Bond Order from seven years to 10 years after November 7, 2017;

WHEREAS, the Local Government Commission formally entered an order approving the Town’s request for a three-year extension of the Greenway Bond Order on February 6, 2024; and

WHEREAS, the Board of Commissioners held a public hearing on March 12, 2024 on the question of whether the maximum time period for issuing bonds under the Greenway Bond Order should be extended from seven years to 10 years after November 7, 2017;

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF DAVIDSON, NORTH CAROLINA, AS FOLLOWS:

Section 1. The maximum time period for issuing bonds under the Greenway Bond Order has been extended from seven years to 10 years after November 7, 2017.

Section 2. This order will take effect 30 days after its publication.

Rusty Knox, Mayor

STATE OF NORTH CAROLINA)
)
TOWN OF DAVIDSON) ss:

I, Elizabeth K. Shores, Town Clerk of the Town of Davidson, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of the orders titled “**EXTENSION OF BOND ORDER AUTHORIZING THE ISSUANCE OF \$5,000,000 GENERAL OBLIGATION GREENWAY BONDS OF THE TOWN OF DAVIDSON, NORTH CAROLINA**” adopted by the Board of Commissioners of the Town of Davidson, North Carolina at a regular meeting convened on the 26th day of March, 2024, as recorded in the minutes of the Board of Commissioners of the Town of Davidson, North Carolina.

WITNESS my hand and the seal of the Town of Davidson, North Carolina, this the ___ day of _____, 2024.

(SEAL)

Elizabeth K. Shores, Town Clerk
Town of Davidson, North Carolina

DRAFT



RESOLUTION 2024-07

EXTENSION OF BOND ORDER AUTHORIZING THE ISSUANCE OF \$4,000,000 GENERAL OBLIGATION PARKS AND RECREATION BONDS OF THE TOWN OF DAVIDSON, NORTH CAROLINA

WHEREAS, on August 8, 2017 the Board of Commissioners of the Town of Davidson, North Carolina (the “*Board of Commissioners*”) adopted a bond order (the “*Parks and Recreation Bond Order*”) authorizing \$4,000,000 General Obligation Parks and Recreation Bonds of the Town of Davidson, North Carolina (the “*Town*”) to pay the capital costs of acquiring, constructing, renovating, expanding and improving various parks and recreation facilities, including constructing, paving, resurfacing, grading and improving certain parking lots related thereto; acquiring land for future parks and recreation facilities; and acquiring any necessary furnishing and equipment, rights-of-way in land and easements therefor; and

WHEREAS, the Parks and Recreation Bond Order took effect upon its approval by the voters of the Town at a referendum on November 7, 2017;

WHEREAS, as permitted by the Local Government Bond Act, the Town applied to the Local Government Commission to extend the Parks and Recreation Bond Order from seven years to 10 years after November 7, 2017;

WHEREAS, the Local Government Commission formally entered an order approving the Town’s request for a three-year extension of the Parks and Recreation Bond Order on February 6, 2024; and

WHEREAS, the Board of Commissioners held a public hearing on March 12, 2024 on the question of whether the maximum time period for issuing bonds under the Parks and Recreation Bond Order should be extended from seven years to 10 years after November 7, 2017;

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF DAVIDSON, NORTH CAROLINA, AS FOLLOWS:

Section 1. The maximum time period for issuing bonds under the Parks and Recreation Bond Order has been extended from seven years to 10 years after November 7, 2017.

Section 2. This order will take effect 30 days after its publication.

Rusty Knox, Mayor

STATE OF NORTH CAROLINA)
)
TOWN OF DAVIDSON) ss:

I, Elizabeth K. Shores, Town Clerk of the Town of Davidson, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of the orders titled “**EXTENSION OF BOND ORDER AUTHORIZING THE ISSUANCE OF \$4,000,000 GENERAL OBLIGATION PARKS AND RECREATION BONDS OF THE TOWN OF DAVIDSON, NORTH CAROLINA**” adopted by the Board of Commissioners of the Town of Davidson, North Carolina at a regular meeting convened on the 26th day of March, 2024, as recorded in the minutes of the Board of Commissioners of the Town of Davidson, North Carolina.

WITNESS my hand and the seal of the Town of Davidson, North Carolina, this the ___ day of _____, 2024.

(SEAL)

Elizabeth K. Shores, Town Clerk
Town of Davidson, North Carolina

DRAFT



AMENDMENT TO RESOLUTION 2023-21
ESTABLISHING APPROVAL AND SIGNATURE AUTHORITY FOR
TOWN OF DAVIDSON CONTRACTS

WHEREAS, NCGS § 143-129 requires that the governing body formally delegate the authority to the “manager, school superintendent, chief purchasing official, or other employee the authority to award contracts, reject bids, or readvertise to receive bids on behalf of the unit.”

WHEREAS, North Carolina §143-129 has established the formal bid threshold for the purchase of “apparatus, supplies, materials, and equipment” at \$90,000 and further requires that purchases that exceed \$90,000 be approved by the Board of Commissioners and;

WHEREAS, North Carolina §143-129 has established the formal bid threshold for “construction or repair contracts” at \$500,000 and further requires that construction or repair contracts that exceed \$500,000 be approved by the Board of Commissioners and;

WHEREAS, North Carolina § 143-131 has established informal bidding procedures that include informal bidding for construction or repair contracts between \$30,000 and \$500,000 and purchase of apparatus, supplies, materials, and equipment between \$30,000 and \$90,000;

WHEREAS, town staff is aware of informal and formal bidding procedures and routinely solicits for bids when required;

WHEREAS, on July 14, 2015, the Town of Davidson Board of Commissioners approved Resolution 2015-20 that designated the Town Manager as the Authority to award contracts, reject bids or readvertise bids on behalf of the Town of Davidson for certain construction and repair contracts and certain contracts for the purchase of apparatus, supplies, materials, and equipment;

WHEREAS, the Town Board wishes to clarify the approval and signature authority for all town contracts.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Davidson as follows:

1. The following Contracts shall require approval by the board of commissioners:
 - a. Contracts for the acquisition of real estate and leases of real estate.
 - b. Contracts for the disposition of real property.
 - c. All construction and repair contracts in amounts greater than \$500,000.
 - d. All contracts for apparatus, materials supplies or equipment in amounts greater than \$90,000.
 - e. All other contracts in amounts greater than \$250,000.



February 29, 2024

Town of Davidson Board of Commissioners
216 South Main Street
Davidson, NC 28036

Dear Board of Commissioners:

As the advisor to the Davidson College Union Board, I work with the student leaders to help them plan successful and safe events each year at the College. One of their signature events is an annual spring concert. This event is held outside on campus on Old Tennis Court Lawn. This year, this event will be Friday, April 19, 2024 between 8pm and midnight. Because the music could go over the decibel limit of 60 dBa for the Town of Davidson's sound ordinance, we would like to request a variance for this event.

In addition to requesting the variance, we also plan to alert neighbors within a three block radius of campus by placing notecards on their doors or in their mailboxes with a notification about the additional noise days in advance of the event. We are happy to increase the area in which we notify residents or use other methods for getting this message out. Thank you for your consideration of this request! Please let me know what questions you have for me.

Thank you!

Emily Eisenstadt

Emily Eisenstadt
Associate Director of Student Activities
Alvarez College Union
704-894-2192
emeisenstadt@davidson.edu



February 20, 2024

Town of Davidson Board of Commissioners
251 South Street
Davidson, NC 28036

Dear Board of Commissioners:

I am delighted to share with the Board of Commissioners that Davidson College will host a popular American folk-rock band from Atlanta, GA on Friday, April 26th. This special event will be open to the public and will bring together the Davidson College community and many visitors to the Town of Davidson.

The concert will begin at 7:30 PM and is expected to end by 11:00 PM. It will be held in the new Davidson Athletic Stadium.

In addition to requesting the variance, we also plan to notify neighbors within a three-block radius of campus by placing notecards on their doors or in their mailboxes with a warning about the additional noise days in advance of the event. Thank you for your consideration of this request! Please let me know if you have any questions.

Best regards,

A handwritten signature in cursive script that reads 'Adrienne Wadley'.

Adrienne Vinson Wadley
Chief of Staff
Office of the President
Davidson College
704-894-2590
adwaddey@davidson.edu



AGENDA MEMO

To: Davidson Board of Commissioners
From: Austin Nantz, Assistant Town Manager
Date: March 26, 2024
Re: Consider Approval of the 2024-2025 Strategic Plan

OVERVIEW

On February 22 and 23, the Board of Commissioners and the Town management team held a strategic retreat in Raleigh to develop the Board's two-year strategic plan. At the retreat, the Board and management team went through a planning process that included a SWOT Plus (strengths, weaknesses, opportunities, threats) analysis, a review of the descriptions of the 2022-2023 Strategic Plan Goals and identified new goals and strategies for the 2024-2025 plan. From that process, a draft Strategic Plan with updated goals, goal descriptions, and strategies was developed. That plan was presented at the March 12 Board of Commissioners meeting and all requested edits have been made.

REQUESTED ACTION/MOTION

The Board is asked to consider approval of the 2024-2025 Strategic Plan.

RELATED TOWN GOALS

Core Values

Citizens are the heart of Davidson, so Town government will treat all people fairly, with courtesy and respect.

Open communication is essential to an engaged citizenry, so town government will seek and provide accurate, timely information and promote public discussion of important issues.

Davidson's historic mix of people in all income levels and ages is fundamental to our community, so Town government will encourage opportunities, services, and infrastructure that allow people of all means to live and work here.

Citizens entrust Town government with the stewardship of public funds, so government will provide high quality services at a reasonable cost.

OPTIONS/PROS & CONS

n/a

NEXT STEPS

Town staff will develop action items for each strategy and begin implementation of this 2 year plan.



2024-2025 Strategic Plan

Austin Nantz
Assistant Town Manager
March 26, 2024

www.townofdavidson.org

Background

- February 22 and 23, the Board of Commissioners and management team participated in a strategic retreat to develop the Board's two-year strategic plan.
- The planning process included completing a SWOT Plus (strengths, weaknesses, opportunities, threats) analysis, reviewing descriptions of the 2022-2023 Strategic Plan goals and identifying new plan goals and strategies for the 2024-2025 plan.
- A draft Strategic Plan with seven goals, updated goal descriptions, and priority strategies was developed and presented at the March 12 Board meeting.
- A track-changes version of the updated plan is attached to the agenda.

2024-2025 Strategic Plan

Goal A	Promote collaborative efforts to create livable spaces and healthy places to enhance quality of life for all residents.
Goal B	Preserve the historic character of our Town, including its people, places, & stories. Honor the history of our residents through their lived experiences.
Goal C	Expand, improve, and diversify the Town's transportation network to provide residents and visitors with safe, convenient, accessible, reliable, and efficient multi-modal travel choices to connect people across the community.
Goal D	Work together to foster a culture of equity, belonging, inclusion, and advance the Town's Affordable Housing program. Provide, create, and support opportunities for all. Treat everyone with respect, dignity, and recognize every voice.
Goal E	Preserve Davidson's natural assets and develop, implement, and actively encourage innovative solutions to environmental, energy, and climate-based challenges.
Goal F	Attract diverse commercial development contributing to Davidson's unique economy and support new initiatives to create local jobs and add to the vibrancy of the community.
Goal G	Provide efficient and high-quality public services and facilities through thoughtful and proactive planning, responsible stewardship of Town resources and a professional and committed workforce.

Motion to approve the 2024-2025 Strategic Plan.





2024-2025 Town of Davidson Strategic Plan

Goal A: Healthy, Livable, & Vibrant Community

Promote collaborative efforts to create livable spaces and healthy places to enhance quality of life for all residents.

2024-2025 Priority Strategies:

1. Create a healthy environment for the physical and mental well-being of all residents.
2. Encourage a well-planned built environment through exceptional design standards and practices.
3. Collaborate with community partners to leverage assets and support goals.
4. Provide a safe and secure community utilizing best practices and standards.
5. Pro-actively engage residents to contribute in positive and meaningful ways for the greater community good.

Goal B: Historic Preservation

Preserve the historic character of our Town, including its people, places, & stories. Honor the history of our residents through their lived experiences.

2024-2025 Priority Strategies:

1. Prioritize &and implement recommendations from the historic preservation plan.
2. Continue to expand the local historic district.
3. Support and encourage storytelling initiatives to capture the lived experiences of residents.
4. Explore legislative options to secure demo deny authority.
5. Educate property owners on the use of historic tax credits and design standards.
6. Revise historic district standards.
7. Explore the effects/impact that National Historic District may have on naturally occurring affordable housing.
7. Evaluate strategies to expand the National Register Historic District and achieve the combined goals of preventing demolition of historic structures, retaining naturally occurring affordable housing, and encouraging compatible new development.

Formatted: Highlight

Goal C: Connecting People and Places

Expand, improve, and diversify the town's transportation network to provide residents and visitors with safe, convenient, accessible, reliable, and efficient multi-modal travel choices to connect people across the community.

2024-2025 Priority Strategies:

1. Prioritize ~~and~~ implement mobility plan recommendations for policies, programs, and projects.
2. ~~Continue to implement priorities from the Allocate resources for~~ Continue to implement priorities from the Allocate resources for Vision Zero Action Plan.
3. ~~Continue to W~~work with Charlotte Area Transit System (-CATS) to improve local and regional transit services and accelerate construction of transit stop amenities.
4. Review and determine ~~if any~~ updates are appropriate for ~~to~~ Traffic Impact Analysis (TIA) standards.
5. Address existing sidewalk gaps in a contextually sensitive manner.
6. Prioritize and implement projects from the Capital Improvement Plan (CIP) and pursue grant opportunities for funding.
7. ~~Continued f~~Focus on connecting Iredell, East, and extraterritorial jurisdiction (ETJ) neighborhoods to town.
8. Review the maintenance program for greenways ~~and~~ identify and implement safety improvements.

Goal D: Affordable Living, Equity & Inclusion

Work together to foster a culture of equity, belonging, inclusion, and advance the Town's Affordable Housing program. Provide, create, and support opportunities for all. Treat everyone with respect, dignity, and recognize every voice.

2024-2025 Priority Strategies:

1. Continue to advance the priorities identified in the established with the Affordable Housing Needs Assessment Implementation Strategy.
2. Pursue ways to expand equity and inclusivity in Town operations and programming.
3. Engage the community in a process to explore and define what restorative justice means.
4. Research workforce housing options and opportunities.

Goal E: Sustainability and Natural Assets

Preserve Davidson's natural assets and develop, implement, and actively encourage innovative solutions to environmental, energy, and climate-based challenges.

2024-2025 Priority Strategies:

1. Develop a specific approach to land preservation with partners and support Mecklenburg County's efforts on farmland preservation.
2. ~~Begin the implementation of the~~ priorities established by the Climate Action Plan (CAP).
3. Research available grant opportunities to fund implementation of Climate Action Plan (CAP) initiatives.
4. Finalize and implement the Urban Community Forestry Plan (Tree Canopy Master Plan).
5. Identify and pursue ways to model desired behavior supportive of improving sustainability ~~and &~~ environmental awareness.
6. Strive to improve energy efficiency in town-owned buildings.
7. Improve energy efficiency in Town-owned affordable housing through the promotion of programs and ensure ~~that ing~~ sustainability is incorporated in affordable housing development.

Goal F: Economic Development

Attract diverse commercial development contributing to Davidson's unique economy and support new initiatives to create local jobs and add to the vibrancy of the community.

2024-2025 Priority Strategies:

1. Continued ~~to~~ implementation ~~of the~~ Downtown Small Area Plan priorities.
2. Focus ~~on~~ economic development ~~efforts~~ along Hwy 73/East Davidson, Downtown, South Main, and Circles @ 30.
3. Expand outdoor events and programs that support local businesses.
4. Continued ~~partnership and~~ support for Minority Women Small Business Enterprises (MWSBE) ~~through a partnership~~ with ~~the~~ Hurt Hub and Amplify Davidson.
5. Update Economic Development Strategic Plan for ~~the~~ next 5 years.
6. Seek collaborative solutions to support local farming and food ~~systemstudies~~.
7. Support downtown business community by exploring data-driven parking solutions.

Goal: G. Operational Excellence

Description: Provide efficient and high-quality public services and facilities through thoughtful and proactive planning, responsible stewardship of Town resources and a professional and committed workforce.

2024-2025 Priority Strategies:

1. Apply a Strategic Plan lens to all Town operations through policies and practices.
2. Create and maintain user-friendly “metrics dashboard” that monitors and displays Comprehensive Plan key metrics.
3. Develop a five-year staffing needs forecast.
4. Proactively maintain AAA/Aaa bond rating through sound financial management practices.
5. Review Town policies and work with Departments to ensure that departmental policies and guidelines are in line with Town wide policies.
6. Evaluate technology tools that can improve efficiency, transparency, and accessibility.



AGENDA MEMO

To: Davidson Board of Commissioners
From: Jason Burdette, AICP, Planning Director
Date: March 26, 2024
Re: Discuss Short Term Rentals in the Town of Davidson

OVERVIEW

Short Term Rentals (STR) have proliferated across North Carolina in recent years. This discussion includes how STR has been defined in other communities, potential legal ramifications, and potential strategies for Davidson.

REQUESTED ACTION/MOTION

This item is for discussion only.

RELATED TOWN GOALS

Strategic Plan Alignment

A Well-Planned and Livable Community – Create well-planned, dynamic community places with connected progressions between them.

Economic Development - Leverage town resources to attract diverse commercial development that contributes to Davidson’s unique local economy and supports new initiatives that create jobs and opportunities for the community.

Core Values

Open communication is essential to an engaged citizenry, so town government will seek and provide accurate, timely information and promote public discussion of important issues.

Davidson’s economic health is essential to its remaining a sustainable community, so town government will judiciously encourage and guide the location of new business opportunities.

OPTIONS/PROS & CONS

Options: N/A

Pros: Click or tap here to enter pros. Enter N/A if needed

Cons: Click or tap here to enter next steps for board action or staff. Enter N/A if needed

NEXT STEPS

Continue to monitor the situation in Davidson.

REFERENCE:

How are Short-Term Rentals Defined & Applied?

- A. Not currently defined in Davidson Planning Ordinance –save for Bed and Breakfast.
- B. **Asheville:** Essentially banned in the city save for one district. “Short-Term Vacation Rental (STVR)” defined as the rental of an entire dwelling unit for less than a month; only permitted in Resort zoning district. “Homestays,” in which an owner rents out part of their primary residence are not banned.
- C. **Belmont:** A dwelling unit that used for overnight lodging accommodations that are provided to renters for no longer than 30 days. A portion of or the entire dwelling unit can be used for lodging, including all or part of an accessory structure.
- D. **Blowing Rock:** The rental, lease, or offer to make available, any attached or detached residential dwelling unit, or portion thereof, by way of a rental agreement, lease, license, or any other means, (whether oral or written) for compensation or consideration, for a duration that is less than 28 consecutive days. *Allowed in specific districts and a permit is required. Comprehensive program.*
- E. **Cornelius:** “Transient Occupancy:” Occupancy that is intended to be temporary, or which is offered or advertised as being available for a term less than 90 days. In determining whether a property is used as a transient occupancy, such determination shall be made without regard to the form of ownership of the property or unit, whether the occupant has a direct or indirect ownership interest in the property or unit, and without regard to whether the occupancy arises from a rental agreement, other agreement, or the payment of consideration. Occupancy of units for less than three (3) weeks per year are not considered Transient Occupancy. *Transient Occupancy is permitted in certain districts in town, including Rural Preservation, Neighborhood Mixed use, Town Center, and Village Center. It’s also permitted in General Residential and Neighborhood Residential, but only in multi-family building types. Summary: Short-term rentals are not permitted in town with only a few exceptions, mostly away from the lake.*
- F. **Nags Head:** Whole House/Partial House. Rental of an entire single-family dwelling (or up to two guest rooms) to a group operating as one housekeeping unit for vacation, leisure, recreation, or other purposes for less than 30 days. *Partial House requires one additional parking space.*
- G. **Raleigh:** Dwelling units used for overnight lodging accommodations that are provided to renters for no longer than 30 days for compensation. A portion or the entire dwelling unit can be used for lodging, including part of an accessory structure. Permitted as a “Limited Use” in certain zoning districts. Permit required.



Short Term Rentals Discussion

Jason Burdette
Planning Director
March 26, 2024

www.townofdavidson.org

How Are Short Term Rentals (STR) Defined & Applied?

- **Davidson:** Not currently defined (save for Bed & Breakfast)
- **Asheville:** “Short Term Vacation Rental” permitted only in Resort Zoning
- **Belmont:** Dwelling unit used for overnight lodging; no longer than 30 days
- **Blowing Rock:** Rental/Lease; Less than 28 days; Zoning Permit required
- **Cornelius:** “Transient Occupancy;” Less than 90 days; Certain zones
- **Iredell County:** Adopted ordinance 2023; Sued; Not enforcing
- **Nags Head:** Rental of whole house for less than 30 days
- **Raleigh:** Limited to certain districts; Less than 30 days

NC Cities/Towns with STR Ordinances

- Asheville
- Banner Elk
- Blowing Rock
- Boone
- Brevard
- Burke Co.
- Chapel Hill
- Cornelius
- Greensboro
- Highlands
- Iredell Co.
- Lake Lure
- Laurel Park
- Raleigh
- Southport
- Woodfin
- Wilmington

What Does the School of Government Say About STR?

- Local governments have long-regulated hotels/motels as separate from resid.
- Distinction is less clear when STR is a single-family home or bedroom (structure vs. property vs. use)
- Zoning ordinances regulating boarding houses go back to 1930s
- Regulation of Bed and Breakfast more recently
- Renting home by night or week very common in mountain/beach resorts
- Rentals in non-resort areas less common
- Led to increased local government regulation

Schroeder vs. City of Wilmington Case (2022)

- 2019: Wilmington adopts STR ordinance
- Established 400' separation and set cap (Two percent of residential properties)
- Established operational and safety standards for STRs, limited zones
- Lottery process for initial registrations
- Challenged by plaintiff not awarded registration on 2011 IPR statute (inspection, permit, registration)
- Court: Registration provisions invalid; other provisions of ordinance allowed

Post-Schroeder Ramifications

- Registration of STR not permitted
- Cap and distance requirements not permitted
- Restricting whole-house lodging to certain districts allowed
- Parking requirements allowed
- Operation limits (no large events, no food prep in bedroom) allowed
- STR permitted to be defined as a land use and regulated with development standards
- Local government may require a zoning permit, but not a registration

Do We Want to Regulate STR's in Davidson?

YES

- Determine definition
- Select allowable planning areas
- Create performance standards (i.e. parking, large gatherings)

NO

- Allow STR's by-right in all planning areas; Let market dictate operations
- Define STR's without adding performance standards

What Would a STR Ordinance Achieve?

- Better identify use/definition
- Provide safety for renter and existing neighbors
- Preserve neighborhood character
- Ensure compatibility among building types and planning areas

Other Considerations

- Have not seen this as an acute issue in Davidson
- Municipal Code addresses some issues (noise/nuisance)
- Some HOA's might already regulate

NEXT STEPS:

Staff will continue to monitor the issue and determine if we need to be pro-active by creating a STR ordinance.

DISCUSSION



<https://canons.sog.unc.edu/2022/04/short-term-rental-regulations-after-schroeder/>



Coates' Canons NC Local Government Law

Short-Term Rental Regulations after Schroeder

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The North Carolina Court of Appeals ruled in *Schroeder v. City of Wilmington* that state law prohibits a registration requirement for short-term rentals, but the court also ruled that state law allows for general zoning and development standards for short-term rentals. What does that mean for specific local ordinances, exactly? As always, the devil is in the details. This blog digs into those details.

The Wilmington Ordinance

The City of Wilmington adopted an ordinance regulating short-term rentals. Among other things the ordinance established a 400-foot separation between short-term rentals and set a cap on the total number of short-term rentals (two percent of residential properties). In order to enforce the new ordinance the city required registration of short-term rentals and held a lottery for the initial registration. The ordinance had a one-year amortization period for existing operators to cease operations if they were not awarded a registration through the lottery process.

Beyond the registration requirements, the ordinance included operational and safety requirements for any short-term rental. The ordinance limited short-term rentals to certain zoning districts, required safety information to be posted in the rental unit (nonemergency police number and days for trash pick-up), prohibited cooking in bedrooms, and required parking.

The plaintiffs operated a short-term rental prior to the ordinance, did not obtain a permit through the initial lottery, and challenged the ordinance on statutory and constitutional grounds.

Statutory Limits on IPR Programs

A central issue for the challenge was this: What is the scope of the statutory limits of permits, permissions, and registrations for rental residential property? Does state law preempt the registration program and other elements of the Wilmington short-term rental ordinance? The answer to this question depends on the interpretation of the state law relating to housing code inspections, permits, and registration (IPR) programs.

Dating back to 2011 the North Carolina General Assembly established and revised limits on local government IPR programs. Originally codified at G.S. 160A-424 and G.S. 153A-364, these statutes prohibit periodic inspections of residential rental properties except for certain limited situations. The statutes also limit fees, permits, and registration requirements for residential rental properties. The details of IPR programs and the statutory limits are discussed more fully in this bulletin from Tyler Mulligan on [Residential Rental Property Inspections, Permits, and Registration: Changes for 2017](#).

In 2019 the General Assembly amended [G.S. 42A-3](#) to make clear that the limits on IPR programs *do apply* to properties subject to the Vacation Rental Act. Many (perhaps all) short-term rental properties fall under the Vacation Rental Act, so that legislation applied the statutory limits on IPR programs to short-term rentals. That legislative change is discussed more fully on page 14 of this [legislative bulletin](#). The initial legislation for IPR programs was focused on

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conventional landlord-tenant housing scenarios and related to habitability, problem properties, and inspections authority. Some of the current interpretative challenges arise from applying a statute written for one scenario—rental for long-term residential use—to a different scenario—rental of a residential structure for transient occupancy.

Additionally, in 2019, the General Assembly adopted Session Law 2019-111 to revise and update the statutes relating to local planning and development. The old statutes were collected as a new [Chapter 160D](#). The provisions on IPR programs were relocated to [G.S. 160D-1207](#). That section was situated in Article 12 – Minimum Housing Codes. The statutory language was amended to emphasize the relation to Article 11 – Building Code Enforcement and Article 12 – Minimum Housing Codes.

The key statutory language now states that local governments may not “require any owner or manager of rental property to obtain any permit or permission under Article 11 or Article 12 . . . to lease or rent residential real property or to register rental property with the local government.”

Court Decision

With that statutory context and legislative history as backdrop, property owners brought a legal challenge against the Wilmington short-term rental ordinance. The central question that the courts addressed is the question of the scope of the limits for IPR programs. With regard to short-term rental ordinances, does the statute preempt local governments from imposing a registration requirement? Or permit requirement? Or any restriction at all? The Superior Court ruled that the statutes prohibited Wilmington’s registration requirement for short-term rentals. The court struck down not just the registration requirement, but the entire short-term rental ordinance.

The North Carolina Court of Appeals took up the case in [Schroeder v. City of Wilmington](#), 2022 NCCOA 210 (COA21-192). As discussed more below, the court interpreted the limits on permits to apply narrowly to permits *under Article 11 or Article 12 to lease or rent residential property*. The court interpreted the limit on registration to be broadly applicable—not limited to housing code or building code enforcement. With that, the court affirmed the trial court’s decision that the registration provisions were invalid under G.S. 160D-1207(c). The court struck down the registration requirement and the provisions inextricably linked to the registration requirement, but notably the court allowed the other provisions of the Wilmington ordinance to stand.

The analysis and discussion in the Court of Appeals’ opinion offers guidance and highlights questions for moving forward with short-term rental regulations, IPR programs in general, and interpretation of Chapter 160D. This blog is focused on short-term rental regulations.

Moving Forward with Short-Term Rental Regulations

No Rental Registration

The court plainly struck down the registration program of the Wilmington short-term rental ordinance as preempted by G.S. 160D-1207(c). Moreover, the court struck down other “provisions of the Ordinance [that] are so intertwined with the invalid registration requirement that they are likewise preempted by Section 160D-1207(c).” These include the cap and distance requirements, proof of shared parking prior to registration, the registration termination provisions, posting registration numbers in the rental unit, and the amortization of rentals without a registration.

It is worth noting that G.S. 160D-1207 does allow for registration requirements for residential rental property in very limited circumstances based on prior violations. That exception was not part of the Wilmington ordinance nor at issue in the *Schroeder* case.

Regulations Unrelated to Registration Remain

The Court of Appeals did not strike down *all* regulations for short-term rentals. Rather, the court affirmed that many of the Wilmington requirements are unaffected by preemption. The court quoted *Fulton Corp. v. Faulkner*, 345 N.C. 419, 422, 481 S.E.2d 8, 9 (1997), and gives effect to the ordinance’s own severance clause to allow non-offending provisions to remain: “We will give effect to this [severance] clause to preserve any provisions that are ‘not so interrelated or mutually dependent’ on the invalid registration requirements that their enforcement ‘could not be done without reference to the offending part.’”

The court identified the following ordinance provisions as preserved (not preempted): Restricting whole-house lodging to certain zoning districts; parking requirements (one off-street space per bedroom); prohibition on variances; operation limits and requirements (no large events, maintain insurance, manage trash, no food prep in bedrooms); posted safety information; and other use and safety requirements not preempted.

Even some of the provisions struck down in *Schroeder* might be authorized and enforceable without the registration program to taint the provision. For example, the requirement to show proof of shared parking prior to registration was struck down, but the general requirement for parking survives.

Similarly, in this particular case the court struck down amortization related to registration, but arguably an amortization provision related to standard zoning enforcement (unrelated to registration) could survive.

In general, local governments have authority to determine land uses, set reasonable development standards and limits on those land uses, and require some level of permitting for such land uses. The following sections consider the breadth of authority for development regulations for short-term rentals in light of

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the *Schroeder* case.

Define Short Term Rental as a Land Use

Local zoning ordinances commonly define land uses and set restrictions on those uses. An ordinance might define and limit several types of land uses that can occur in a residential structure, including single-family dwelling, boarding house, bed-and-breakfast, duplex, and professional office, among others.

The local government can define those land uses and regulate where those land uses are permitted.

The *Schroeder* case clearly affirms the local authority to add short-term rental to that list of land uses. The Wilmington ordinance identified “whole-house lodging” as a land use and limited that land use to certain zoning districts. The court explicitly upheld that regulation.

Apply Development Standards and Operational Limits

Local ordinances commonly set restrictions and limitations on development. These may include parking requirements, solid waste management, occupancy limits, operational restrictions, and more. The *Schroeder* case affirms several development standards of the Wilmington short-term rental ordinance, including parking requirements, limits on large events, trash management, insurance requirements, safety requirements, and other development limits.

Under the general authority for development regulations and police power ordinances, similar development standards may be applied to short-term rental uses as long as they are not tied to an impermissible rental registration program.

Require Development Approvals for Short-Term Rentals

Based on the *Schroeder* case, a local government may not require a short-term rental operator to register with the local government and the local government may not require a permit or permission under the building code or housing code to rent or lease property. But, may the local ordinance require the operator to obtain some other development approval such as a zoning compliance permit for the land use? Short answer: Based on the case and the statutory authority, an ordinance could require a zoning permit or similar development approval, but an ordinance could not use a zoning permit in a way that amounts to a registration program.

The court responded directly to the concern that this case might impact the scope of zoning or other permitting authority. In Footnote 8 the court stated:

We do not interpret Sections 160A-424(c) or 160D-1207(c) as exempting rental properties from all zoning or permitting requirements; as Plaintiffs conceded at oral argument, even their reading would not preclude Wilmington from zoning or requiring Plaintiffs to obtain a building permit to construct an addition to their property. Our reading does not prohibit these actions either and only limits “permit[s] . . . under Article 11 or Article 12 . . . to lease or rent.” N.C. Gen. Stat. § 160D-1207(c)

(emphasis in court opinion).

Zoning compliance permits, special use permits, site plan approval, and other development approvals are foundational to zoning administration and enforcement. If a property owner wants to convert a grand old residence to a bed-and-breakfast, such a change of use likely triggers the need for development approvals and other permits. Similarly, under most ordinances an owner of a residential structure must obtain certain development approvals in order open a home daycare facility, operate a business out of the residence as a home occupation, or rent rooms as a boarding house. Such ordinances commonly require a basic site plan, limit the number of outside employees, restrict parking, and impose other restrictions.

The authority for these permits is outlined in [Chapter 160D](#). As required at G.S. 160D-403, “no person shall commence or proceed with development without first securing any required development approval from the local government . . .” The term *development approval* is defined at G.S. 160D-102 to mean “[a]n administrative or quasi-judicial approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness” (emphasis added). For local government staff charged with administering development regulations, the duties that may be assigned include “determining whether applications for development approvals meet applicable standards as established by law and local ordinance” (G.S. 160D-402).

Based on the case language and the statutory authority, local governments may require an owner to obtain a development approval such as a zoning compliance permit as a requirement of a short-term rental land use.

What is the line between a permissible zoning compliance permit and an impermissible registration requirement? The court plainly drew a difference between a permit requirement and a registration requirement. The court expressly rejected the argument made by the property owners that a bar on

registration is a bar on *any* permitting scheme. But the court also, in Footnote 9 of the case, left open the possibility that an ordinance could be struck down

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if a permit requirement was merely a registration requirement in disguise. Such an ordinance “would be open to legal challenges asserting that the statute’s language should be applied to reach any ‘permit’ that is, in all practical effect, a registration otherwise barred by the statute.”

The determination of *permit vs. registration* will be a fact-specific inquiry, dependent upon the details of the particular ordinance and the paperwork requirements. In general, registration programs involve an owner or operator submitting basic information about the rental property (such as property address, owner name, 24-hour contact, etc.). Development approvals, on the other hand, commonly involve an application form with information to confirm compliance with applicable standards.

The regularity of submitting paperwork (requiring an annual permit, for example) may be instructive, but is not determinative as to whether it is a permit or registration. While most development approvals are focused on initial construction and commencement of a land use, there are examples of land uses that must seek development approvals more regularly. G.S. 160D-403(c) specifically allows that “[l]ocal development regulations may provide for development approvals of shorter duration for temporary land uses, special events, temporary signs, and similar development.” Development ordinances commonly require seasonal land uses such as Christmas tree lots and pumpkin sales to seek a zoning permit each year. Some ordinances require an annual zoning permit for properties that host food trucks.

Arguably, a short-term rental ordinance could require operators to seek permits with some regularity, but as noted by the court, if the permit is “in all practical effect, a registration otherwise barred by the statute,” then the requirement is likely to be preempted.

Use Separation and Development Caps

The requirement that a land use must be a certain distance from other land uses is a fairly common requirement in local development regulations. Under the applicable statutory rules, family care homes may be separated by up to one-half mile. Ordinances commonly require that adult businesses must be separated from each other and from schools and churches. Restrictions may limit how close bars can be to each other. Under local development regulations certain industrial land uses must have a buffer from residential land uses.

This commonplace zoning regulation is rooted in the grant of power set forth at G.S. 160D-702: “a zoning regulation may regulate and restrict . . . the location and use of buildings, structures, and land.”

Despite this context, the Court of Appeals struck down the Wilmington ordinance separation requirement. Notably, though, the court struck the separation requirement as “so intertwined with the invalid registration requirement that [it is] likewise preempted by Section 160D-1207(c).” There is a good argument that a basic separation requirement enforced through a standard zoning permit could stand even though the Wilmington separation requirement (being dependent on the unauthorized registration program) was preempted.

The general idea of a cap on a particular use is interesting. While it is not commonplace for a zoning ordinance to set a percentage cap on a particular use directly, zoning establishes caps on development in many ways. Indeed, zoning is all about caps—the basic zoning authority allows for regulating and limiting land uses. Certain zoning districts allow residential uses (residential development is capped and limited to those districts), and other zoning districts allow for industrial uses (industrial development is capped and limited to those districts). Density limits set caps on the number of units in a development or in an area. Mixed-use standards may require a certain mix of land uses, thereby capping some uses within the development. Moreover, the separation requirements discussed above have a capping effect because the separation limits the locations where a particular use may be permitted.

A cap on a land use may also arise in another context: there can be a cap on the amount of a land use in a particular development or building. Imagine a homeowner who operates a professional business out of a home office. If the office use is secondary to the residential use it may be permitted as an accessory home occupation. But, if the office use fills most or all of the residence—all bedrooms are converted to offices and the living room is a conference room—then the building is no longer used principally as a residence. Different zoning rules and permitting likely apply to the office land use. Similarly, consider a condominium high-rise building. If a few units are occasionally rented as a short-term rental, that may not dramatically change the nature of the land use. But, if all units are rented as short-term rentals, that building is effectively a hotel. Different zoning rules and permitting likely apply. The Wilmington ordinance included a general cap on the percentage of properties that may be used as short-term rentals. The court struck down that cap along with the registration program. Going forward it is clear that an ordinance may not impose a cap through a registration program. Arguably, a cap could be established and enforced through conventional zoning requirements.

Conclusion

Based on state law and the *Schroeder* case, a local government may not impose a registration requirement on short-term rental operators. Moreover, regulations and standards that are inextricably linked to a registration requirement may be struck down. But, local governments still have authority to regulate short-term rentals through common development regulations and police power ordinances focused on public health and safety.

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