

**Minutes
Special Meeting of the
Elon Planning Board**

**June 1, 2021
Tuesday, 6:00 p.m.**

**Elon Town Hall & via Zoom
Elon, North Carolina**

Attendees: Jim Beasley, Diane Gill, John Harmon, Ralph Harwood, Karla Leath, and Phillip Owens. Brad Moore joined the meeting via Zoom.

Staff present: Pamela DeSoto

Item A - Chairman Beasley called the meeting to order at 6:01 pm.

Item B – Review and Recommendation: LDO Text Amendment #21-01 Regarding Compliance with General Statutes Chapter 160D

Chairman Beasley introduced the item and Ms. DeSoto proceeded with a presentation, summarized as follows:

Ms. DeSoto explained to the Board that there was a new chapter written for planning and development regulations by the N.C. General Assembly and all local governments in N.C. are required to amend their local ordinance to include the provisions. She stated that the new Chapter 160D is rather comprehensive but the provisions are mostly procedural in nature. She added that Chairman Beasley assisted with the review of the draft that she compiled and that he developed some familiarity with it. She also added that there is quite a bit of language in the chapter that does not apply to the work that the Planning Board does, and that she created an outline of the items that she felt were relevant to the work that this board and the Board of Aldermen does. She added that, where municipalities and counties had more ability to set their own standards and processes, these changes include more regulations at the state level, though we do still have some leverage.

She pointed out that all appointed and elected boards are required to disclose ex parte conversations, and have conflict of interest requirements. She added that this overview is not a deep dive into the statute, but only those most relevant items, but that she included a link to the full chapter in the staff report to allow Board members to have a closer look.

Ms. DeSoto then went over the outline, or bullet points, that she highlighted as being most relevant. Those are:

1. New language in LDO subsection 6.2.1 – Exceptions to the applicability of the development review process to make accommodations for bona fide farms, or properly identified agricultural lands, in the extraterritorial jurisdiction.
2. New subsection “C” under 6.3 – Types of Development Proposals to clarify exemptions to subdivision regulations.
3. New subsection “D” under 6.3 – Types of Development Proposals to address development agreements.
4. Amended language in Section 6.7 – Special Use Permits, including definitions and procedures for handling amendments to and modifications of special use permits. The new

subsection 6.7.3 is not specifically described in Chapter 160D; however, 160D makes multiple references to such modifications, so the new language is intended to clarify and lay the groundwork for such changes to be considered.

5. Amended language in 6.8.3 – Performance Guarantees, including setting limitations on the duration of the initial guarantee and new language directing the extension of guarantees under specific situations. Additionally, this subsection describes acceptance of improvements by the Town, and the release of any guarantee on those improvements.
6. Considerable new language has been added to 6.12 – Vested Rights to clarify how a vested right is obtained by a property owner, what type of development approvals may constitute a site-specific vesting plan, the effect and duration of a vested right, and enforcement options regarding vested rights.
7. New and amended language in 8.2.2 – Procedures for Boards and Committees that includes descriptions and processes for quasi-judicial hearings (the Board of Adjustment engages in quasi-judicial hearings when they consider variances and appeals, otherwise this Board acts in an advisory capacity). Additionally, conflict of interest requirements for all appointed boards are clarified.
8. A significant change is required regarding the extraterritorial jurisdiction (ETJ) representation on Planning Boards and Boards of Adjustment in 8.2.4.1. Specifically, the number of Planning Board members representing the ETJ must now be calculated according to the population of the ETJ in comparison to the Town’s overall population. Staff has worked with GIS staff from the City of Burlington to determine the calculations that shows that a single ETJ representative properly addresses this proportionality. The statute requires that the population estimates for this calculation shall be updated no less frequently than after each decennial census. Staff will recalculate the numbers after official 2020 Census counts are provided, and will update this Board when the results are known.
9. A new subsection 8.3.4 – Revocation of Development Approvals is included to permit and clarify the ability of the Town to revoke approvals when the terms of the approval have been violated. The process for revocation must follow the same process required for the original approval, including hearings if they apply.
10. New and amended language in 8.4 – Amendments that address and define down-zoning requests and the processes for zoning map amendments (rezonings) and zoning text amendments. Important to the work of both the Planning Board and the Board of Aldermen in considering these requests are the more concise and clear requirements for justifications of the recommendations and final decisions regarding plan consistency. We can eliminate the matrix we have been using that leads you to the declarations, descriptions, and explanations regarding the decision. From this point forward, the Planning Board is only required to advise and comment, via a brief statement, on whether the proposed action is consistent with the comprehensive plan or any other officially adopted plan that is applicable to the request. Additionally, zoning map amendments require that a reasonableness statement accompany the recommendation and final decision. As before, the amendment may be approved even if a determination is made that the proposal is inconsistent with the plan, and an approval of a zoning map amendment that is inconsistent with the plan, and an approval of a zoning map amendment that is inconsistent with the plan has the effect of also amending the plan accordingly. A short list of factors that may be considered for the statement is provided.
11. Chapter 10 – Definitions includes amended and new definitions required by Chapters 160D and 160A. In some cases these definitions are taken directly from Chapter 160D, and in

others, the definitions have been added or amended to be consistent with N.C. Building Code Council definitions.

Ms. DeSoto advised the Board that, regarding consistency with Elon's Comprehensive Land Use Plan, the Plan lists among its recommendations the following:

- LU-8.12: Ensure that all LDO sections are up-to-date and compliant with state and federal legislation, guidance, and jurisprudence.

She added that the proposal is considered by staff to be consistent with the Comprehensive Land Use Plan, based on the provision above. She then recommended that the Planning Board make a recommendation on the draft amendment and offered a motion format for the Board to use. She added that staff recommends approval of the amendment.

Motion 1: Ms. Gill made a motion that LDO #2101 is consistent with comprehensive plans that have been adopted by the Town of Elon. The motion was seconded by Mr. Harwood, and approved by unanimous vote.

Motion 2: Mr. Harmon made a motion that LDO #21-01 is reasonable and in the public interest. The motion was seconded by Ms. Leath, and approved by unanimous vote.

Motion 3: Mr. Harwood made a motion that the Town of Elon Planning Board recommend approval of LDO #21-01 to the Elon Board of Aldermen. The motion was seconded by Ms. Leath and approved by unanimous vote.

Motion 4: A motion was made by Ms. Gill to accept the staff recommended statement regarding plan consistency, which states: "The proposal is consistent with the Comprehensive Land Use Plan including the recommendation in the Plan, specifically LU-8.12, that calls for the ordinance to maintain compliance with state legislation". The motion was seconded by Mr. Owens and approved by unanimous vote.

Ms. DeSoto stated that moving forward she would incorporate the consistency statement into the first motion to simplify the motion format.

Item C - Motion to Adjourn

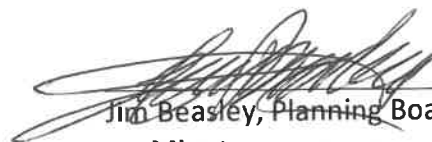
A motion to adjourn was offered by Mr. Owen and seconded by Mr. Harmon. The motion was approved by unanimous vote.

Meeting was adjourned at 6:51 p.m.



Pamela DeSoto, Planning Director

Minutes were completed in
Draft form on September 17, 2021



Jim Beasley, Planning Board Chair

Minutes were approved on
September 21, 2021

