



Town of Clayton
Planning Board Agenda
Tuesday, January 28, 2025 at 6:00 PM
Council Chambers, Town Hall, 111 E. Second Street

<https://www.youtube.com/TownofClaytonNC>

THE PLANNING BOARD MEETING WILL BE HELD IN PERSON.

ANY MEMBER OF THE PUBLIC IS INVITED TO ATTEND THE MEETING.

THE PUBLIC MAY VIEW THE LIVE MEETING ON THE TOWN'S YOUTUBE CHANNEL:

<https://www.youtube.com/TownofClaytonNC>

1. CALL TO ORDER

- a. Roll call of the Planning Board
Presenter: Conrad Olmedo, Planning Director

2. ADJUSTMENT OF THE AGENDA

3. APPROVAL OF MINUTES

- a. Review of the December 17, 2024 Planning Board meeting minutes
Presenter: Conrad Olmedo, Planning Director
[December 17, 2024 Minutes](#)

4. PUBLIC MEETINGS

- a. No scheduled public meetings at this time.

5. NEW BUSINESS

- a. Training Session for the Town of Clayton Planning Board
Presenter: Chad Meadows, CodeWright Planners
[Clayton Planning Board Training Session 1-28-25](#)

6. INFORMAL DISCUSSION AND PUBLIC COMMENT

7. ADJOURN

- a.



**Town of Clayton
Planning Board Minutes
Tuesday, December 17, 2024 at 6:00 PM
Council Chambers, Town Hall
111 E. Second Street**

Board Members Present:

James Moore
Ronald Williams
James Lipscomb
Derrick Applewhite
Jodie Dupree
Daniel Gleason
Mike Surasky

Staff Present:

Andria Archer, Council Member Liaison
Conrad Olmedo, Planning Director
Audrey Duchesne, Senior Planner
Emily Cauley-Schulken, Attorney
Heidi Holland, Town Clerk

Board Members Absent:

Kevin Lee
Anita Bland
Jeffrey Spence

1 CALL TO ORDER

- a) Board Chair Moore called the meeting to order at 6:03 p.m. Mr. Olmedo provided the roll call.

2 ADJUSTMENT OF THE AGENDA

3 ADMINISTRATIVE ITEMS

- a) Revision to the 2025 Planning Board meeting schedule
Presenter: Conrad Olmedo, Planning Director

The reason for this update is the January date would be switched to Tuesday, January 28th. No action is necessary for this.

4 APPROVAL OF MINUTES

- a) November's Planning Board Meeting Minutes
Presenter: Conrad Olmedo, Planning Director

Adoption of Minutes

RESULT:	CARRIED 7-0
MOVER:	Jodie Dupree
SECONDER:	Ronald Williams

YES:	James Moore, Ronald Williams, James Lipscomb, Derrick Applewhite, Jodie Dupree, Daniel Gleason, and Mike Surasky
NO:	None
ABSENT:	Kevin Lee, Anita Bland, Jeffrey Spence

5 PUBLIC MEETINGS

- a) 2024-12-CZM Front Street Duplexes
Presenter: Audrey Duchesne

Ms. Duchesne stated this is a conditional rezoning pertaining to two properties, one .14 acres in size and the other .21 acres. The location is the intersection of N. Church and E. Front Street, and the existing use is vacant. The request is to rezone from Residential High Density to Conditional Zoning Residential. All public notice requirements have been satisfied.

Key elements include construction of 2 duplexes (one on each lot), 15' shared driveway in the back, 2 parking spaces per unit, connection to existing sidewalk, one entry on the front façade with the other in the back, and the applicant signed a voluntary compliance with the Residential Design Guidelines.

She discussed a situation with GIS, there are two different land uses for the two properties but both land uses align with the project. She stated it may be necessary to review the Future Land Use Map in the future.

Staff recommends approval of the request with Motion 1 in the Consistency Statement. Should the rezoning be approved, the concept plan and associated condition would be tied to the land in accordance with NC Statute Chapter 160D.

Mr. Olmedo stated there was a technicality with the neighborhood meeting. The meeting was conducted on a date that is not what the UDO required, which is Monday-Friday from 6:00 – 8:00. The meeting was held on a Saturday. The applicant has committed to having a meeting subsequent to this Planning Board meeting.

Board Chair Moore asked about parking. With parking in the rear, the residents that have a front entry must walk around the building to enter their unit. Ms. Duchesne stated yes, that is stated in the single-family residential design guidelines for duplexes the primary façade of the building shall contain fewer than one dwelling entrance. The intention was to give the appearance of a single-family detached home.

Board Member Lipscomb asked if there were any stormwater concerns with the impervious surface. Mr. Olmedo stated in terms of impervious surface coverage, the UDO does not have a percentage maximum and for storm control measures, it is less than an acre so this would not be an issue for either parcel. Board Member Lipscomb asked if there were any concerns regarding the shared

access easement for parking; Mr. Olmedo stated this was a matter of discussion for staff during TRC reviews. It was seen as an alternative to having the garages and access off Front Street, to have to go along the back, staff did not see any issues regarding the shared driveway. Board Member Lipscomb asked about guest parking. Mr. Olmedo stated guest parking is generally a requirement for a single-family attached product; two parking spaces are being provided per unit.

Board Member Surasky asked if this section of Front Street is in the downtown plan, and he asked why they are not building a sidewalk on Church Street? Mr. Olmedo stated there is a call to install a sidewalk the length of the property.

Ms. Duchesne stated the requirement for parking spaces for duplexes is two per dwelling unit, but it does not mention guest parking. Mr. Olmedo stated the lots each have one duplex so each lot would allow four parking spaces.

Board Member Applewhite stated regarding parking lots, with a 15' shared driveway coming in, would residents be able to turn their car around while accessing the spots. Mr. Olmedo stated TRC did review this project with the Engineering Department, and he would defer that the Town is accepting this driveway width as acceptable. He stated staff could present to the applicant to possibly have a hammerhead at the end of the second lot to allow for a vehicle to back up.

Board Chair Moore shared his concerns on parking. Mr. Olmedo stated staff has been working with the applicant and there has already been a reduction of the front setback. If there would be further discussion on any driveway width concerns, he would recommend having the reduction of the front set back to bring the structures closer to the street on Front Street increasing the width of the driveway.

Applicant Garren Bostic was present. Board Chair Moore asked if anyone from the public wished to speak. With no one wishing to speak, it was turned over to the board for their deliberation.

Board Member Applewhite made a motion to approve with Motion 1 in the Consistency Statement; seconded by Board Member Surasky. Board Member Surasky stated he noticed there is a driveway onto Front Street, would that be closed; Mr. Olmedo stated the concept plan does not show that driveway accessing the property, staff would discuss this with the applicant for clarification.

Motion to Approve Motion 1 in the Consistency Statement

RESULT:	CARRIED 7-0
MOVER:	Derrick Applewhite
SECONDER:	Mike Surasky
YES:	James Moore, Ronald Williams, James Lipscomb, Derrick Applewhite, Jodie Dupree, Daniel Gleason, and Mike Surasky

NO:	None
ABSENT:	Kevin Lee, Anita Bland, Jeffrey Spence

- b) 2024-27-CZM Amelia Church Townhomes
Presenter: Audrey Duchesne

Ms. Duchesne stated this is a conditional rezoning with a request to rezone from OFI to CZR. The property size is 19.85 acres, is currently vacant and located between Amelia Church and Short Johnson Road. All public notice requirements and were satisfied.

The first neighborhood meeting was held on March 5, 2024 before the application took place, with only landowners within 100 feet being notified. A second meeting was held on December 16, 2024 with landowners within 300' feed being notified; no one attended.

Project data included:

- 173 Single-Family Attached Dwelling Units at 8.72 units/acre
- 2 Parking Spaces per unit
- 38 Parking Spaces for guest provided
- Open space of 12.5% of site area
- Active Open Space required: 1.24 acres
- Total RCA remaining: 35,444 sq. ft on 57,007 sq. ft.
- 4 entry points
- 2 Stormwater Management with enhancements
- 10' proposed right-of-way dedication on Amelia Church

Members received a new packet right before the meeting containing updated information. In this packet, staff proposed modifications to include a buffer size along RLL district to be updated to 20' and to provide a table describing the dimensional requirements of the product and the applicant proposed a modification that open space minimum would be required in the conditions (1.24 acres).

Staff recommends approval of Motion 2 in the consistency statement, approval being inconsistent with the 2045 Comprehensive Growth Plan.

Board Member Surasky asked if this was approved, when would the project begin? Mr. Olmedo stated the preliminary plat and subdivision construction documents would need to be submitted first. Board Member Surasky referenced the traffic study which stated the design year was 2025, he discussed the difference traffic would be in 5 years from now. It would be nice to have a study showing what traffic could look like then. He wants to make sure what the applicant is proposing with a one-turn lane would be sufficient in 5 or 10 years. He suggested the Town's ordinances should state for us to look out beyond the build year.

Board Chair Moore asked if the streets allow on-street parking? There was discussion on fire apparatus possibly not being able to get through. It was determined this street is not wide enough for parking on both sides. He stated with the 38 parking spots, it looks like there would only be 36 or 37 because the corner of one of the spots is right on the parking space almost making that space unusable.

Board Member Gleason stated he assumed that was being requested because if you add on-street parking, that would take away from the open space minimum; he asked if the Town would be open to changing their typical section through this. He stated his concern is we are showing this as a public street and Short Johnson Road is a full access intersection; when NC42 is widened in the future, that would be a right-in right-out and with current and future developments, there would be a lot of people using this development as a cross through. He asked if the Town would be open to changing the section to add more on-street parking. Mr. Olmedo stated a challenge with public streets is not to have the vehicles that are parked backed up into the public street. The applicant has proposed a private street by the mail kiosk. If there is a need for additional parking, a separate internal parking lot might be an option but that would impact the open space.

Board Member Surasky stated he did not think this area should change because the wider you make it the less safe it would be, he felt the typical section is fine. He asked if we could write a condition that the private street would never be taken over by the Town; Mr. Olmedo stated that has been noted.

Applicant Spencer Terry with Boehler Engineering was present. He stated this property had already been approved and has a standing SUP for 196 quad units. They are asking to reduce the number from 196 to 173. The 12.5% open space was calculated off the old UDO, in the layout presented tonight they are providing 25% which is 5.24 acres; he stated they would not like to be locked into that number due to any design changes. He stated he would like to work with staff to come up with a percentage that is beyond the minimum but is flexible enough for any design changes.

The existing RCA on site is 57,000 sq. ft.; the 21,000 sq. ft. reduction is for the stream crossing to Short Johnson Road. As far as parking internally, he shows 38 parking spaces and could add more if they need to. Regarding on-street parking, they could look at conditions if they have to. He stated if the rezoning could be approved in January/February, they would like to start construction toward the end of the year 2025.

He stated his team had worked extensively over the past year with Town Manager Rich Cappola and Engineering staff regarding sewer. The sewer presented tonight was agreed to with staff before some of the developments unfolded in the last few months. At a minimum, they looked at running proposed gravity down Short Johnson and tying into Walnut Creek Pump Station to the north. Now, through three different projects, there is collaborative work to put in

a gravity main down Walnut Creek which would tie into Glen Haven Pump Station.

Board Member Applewhite asked about the north side of the project, if the proposed 20' Type C buffer with a fence would be natural or planted? Mr. Terry stated they would like to keep it natural but if there are holes, there would be an opaque 6' fence and would supplement plantings for any open areas with any fence being on the project side.

Board Chair Moore asked if anyone from the public wished to speak. With no one wishing to speak, this was turned over to the board for deliberation.

Board Chair Lipscomb stated his only concern is parking. Mr. Olmedo stated in the new UDO a garage space shall not receive credit towards off-street parking. With this project being a single-car garage, we are not able to credit the garage space as satisfying the minimum parking requirement. Mr. Terry stated if they need to widen the driveways to 18' to allow double parking, they have the space to allow for that. Board Member Lipscomb asked if the cross access over to the apartments, should that be listed as a parking lot instead of a private street?

Board Member Dupree motioned to approve this item with Motion 2 in the consistency statement with the contingency the applicant would modify the parking to 18' wide at each unit to allow for additional parking. Board Member Lipscomb seconded the motion. Board Member Surasky clarified it would be 18' wide driveway; Board Member Dupree agreed and stated and any additional parking if they could find it.

Motion to Approve Motion 2 in the Consistency Statement with contingency the applicant would modify the driveway to 18' to allow for additional parking and to add any additional parking they could

RESULT:	CARRIED 7-0
MOVER:	Jodie Dupree
SECONDER:	James Lipscomb
YES:	James Moore, Ronald Williams, James Lipscomb, Derrick Applewhite, Jodie Dupree, Daniel Gleason, and Mike Surasky
NO:	None
ABSENT:	Kevin Lee, Anita Bland, Jeffrey Spence

6 INFORMAL DISCUSSION AND PUBLIC COMMENT

- a) Board Chair Moore stated his term is up and he has enjoyed his 6 years on the board and enjoyed working with the members. Board Member Lipscomb stated his term is up as well. Mr. Olmedo thanked Board Member Moore and Lipscomb for their years of service on the board.

7 ADJOURN

- a) With nothing further, the meeting was adjourned at 7:15 p.m.

RESULT:	CARRIED 7-0
MOVER:	James Lipscomb
SECONDER:	Ronald Williams
YES:	James Moore, Ronald Williams, James Lipscomb, Derrick Applewhite, Jodie Dupree, Daniel Gleason, and Mike Surasky
NO:	None
ABSENT:	Kevin Lee, Anita Bland, Jeffrey Spence

Duly adopted this 28th day of January 2025.

Jodie Dupree
Vice-Chair

ATTEST:

Heidi L. Holland, CMC, NCCMC
Town Clerk



Planning Board

Training Session
1.28.25



OVERVIEW

01

What is Planning

02

**NC General
Statutes**

03

**Planning Board
& the UDO**

04

**Public Meeting
Process**

05

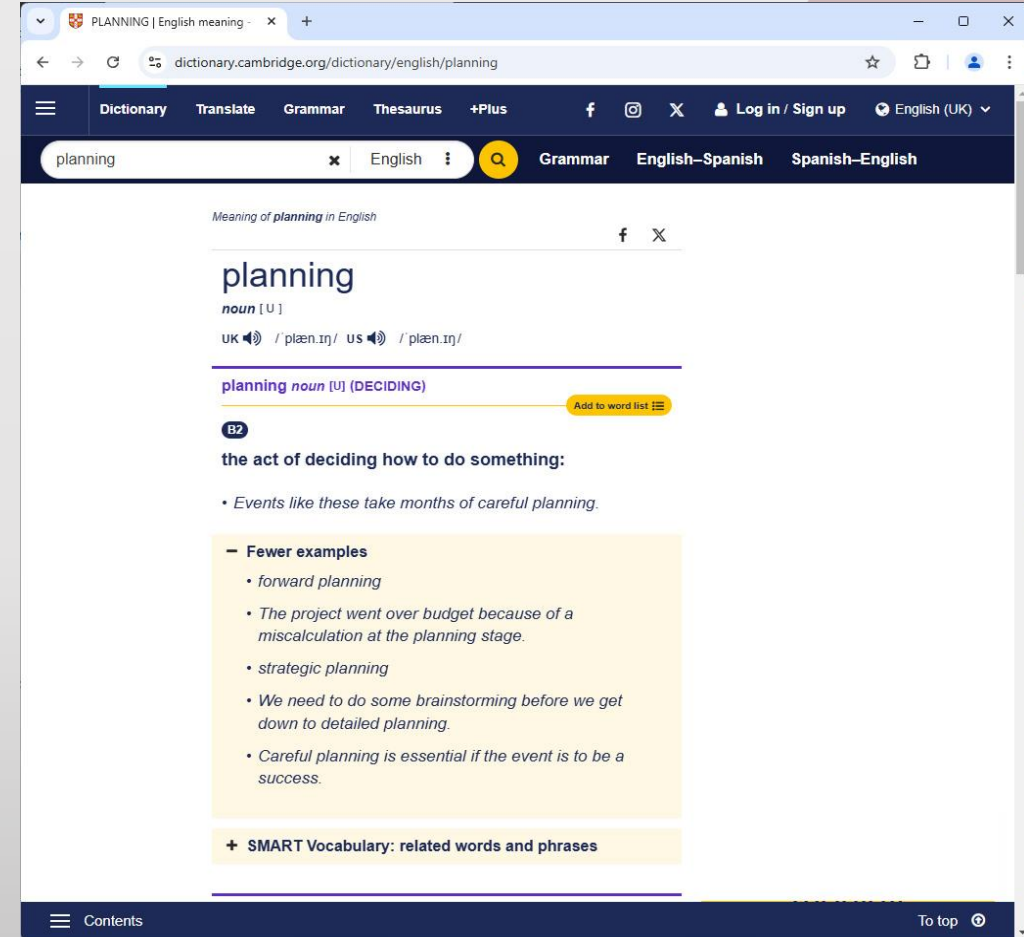
Hypotheticals



WHAT IS PLANNING?

An activity undertaken by a community to:

1. Identify a desired future state, and
2. Determine the actions necessary to achieve that desired future state.



The screenshot shows the Cambridge Dictionary website for the word 'planning'. The page includes the word's part of speech (noun), pronunciation (UK and US), and a definition: 'the act of deciding how to do something:'. It also provides examples such as 'forward planning', 'The project went over budget because of a miscalculation at the planning stage.', 'strategic planning', 'We need to do some brainstorming before we get down to detailed planning.', and 'Careful planning is essential if the event is to be a success.' The page is in English and has a dark blue header with navigation links like Dictionary, Translate, Grammar, and Thesaurus.



WHY PLAN?

Promote desirable social, economic, and environmental outcomes for communities

Help ensure an efficient use of resources

Reduce risks and hazards

Enhance quality of life

Protect property values

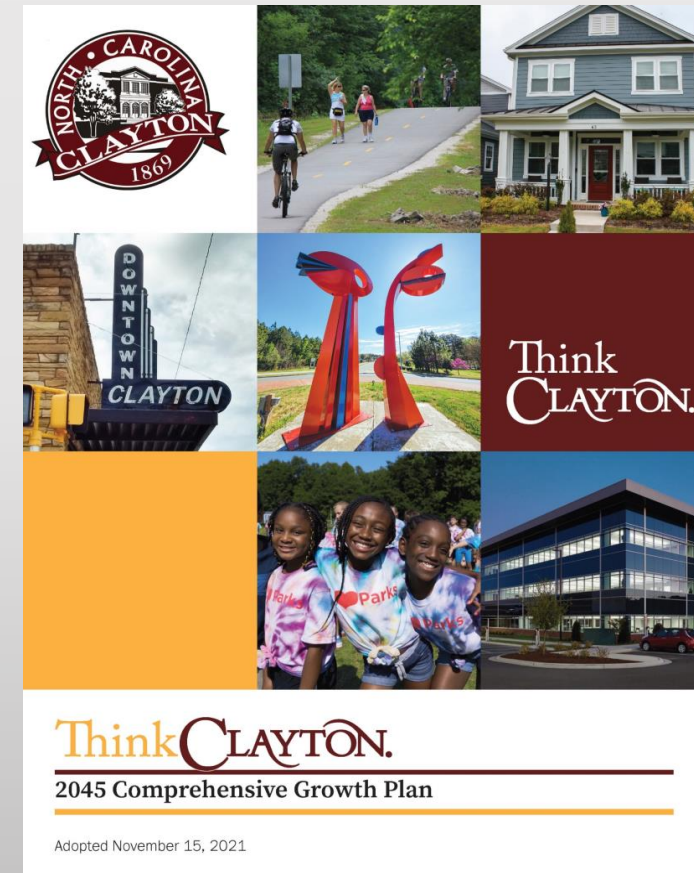
Reduce disparities

Promotes a sense of community

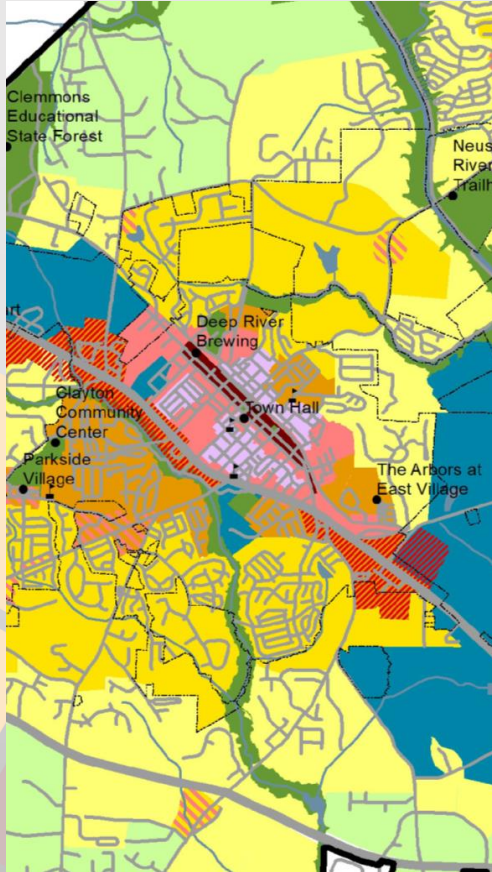


COMPREHENSIVE PLAN

- The Comprehensive Plan is the physical embodiment of the planning actions undertaken by a community
- It describes a consensed-upon future vision of the community
- It identifies the shared goals and objectives necessary to establish the future vision
- It lists and prioritizes the actions to be taken to achieve shared goals



COMPREHENSIVE PLAN PURPOSE



- Provides the legal foundation for land use regulation
- Guides day-to-day land use decision making
- Outward expression of a community's aspirations (as a function of economic development)
- Helps guide investment decisions on infrastructure and capital projects
- Often includes a schedule or desired timeframe for action



ROLE OF THE PLANNING BOARD

The Planning Board is the body generally charged with the responsibility to initiate, oversee, and maintain the comprehensive plan



Clayton, NC • Planning Board Training Session • 1.28.25

OVERVIEW

01

**Planning Boards &
Planning Generally**

02

**NC General
Statutes**

03

**Planning Board
& the UDO**

04

**Public Meeting
Process**

05

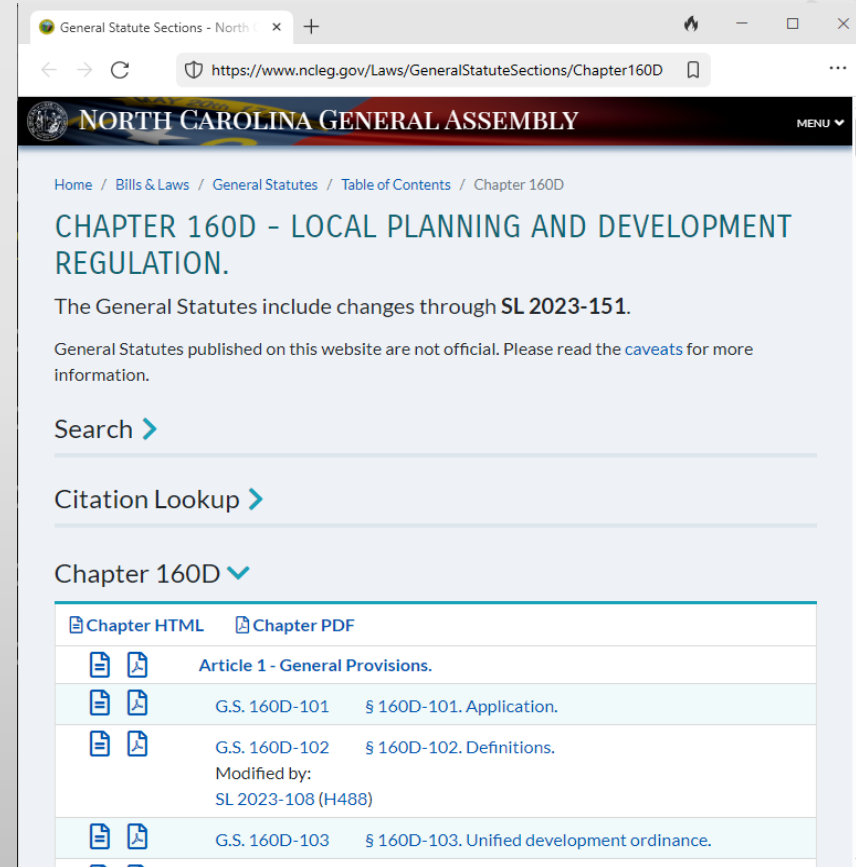
Hypotheticals



NC GENERAL STATUTES & THE PLANNING BOARD

<https://www.ncleg.gov/Laws/GeneralStatuteSections/Chapter160D>

- 160D-301 Planning Boards
- 160D-501 Plans
- 160D-604 Planning Board Review & Comment (on zoning-related matters)



The screenshot shows the North Carolina General Assembly website. The header includes the North Carolina General Assembly logo and a menu. The main content area displays "CHAPTER 160D - LOCAL PLANNING AND DEVELOPMENT REGULATION." Below this, it states "The General Statutes include changes through SL 2023-151." and "General Statutes published on this website are not official. Please read the caveats for more information." There are links for "Search" and "Citation Lookup". Under "Chapter 160D", there are links for "Chapter HTML" and "Chapter PDF". A table lists the following sections:

Document Type	Section	Text
Article 1 - General Provisions.		
G.S. 160D-101	§ 160D-101.	Application.
G.S. 160D-102	§ 160D-102.	Definitions.
Modified by: SL 2023-108 (H488)		
G.S. 160D-103	§ 160D-103.	Unified development ordinance.

NCGS §160D-301. PLANNING BOARDS

- Planning Boards must have at least 3 members
- Sets out 7 potential duties for a Planning Board

1. To prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.
2. To facilitate and coordinate citizen engagement and participation in the planning process.
3. To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
4. To advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.
5. To exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct.
6. To provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.
7. To perform any other related duties that the governing board may direct.

NCGS §160D-501. PLANS

- Clarifies that local governments must have a comprehensive plan to apply zoning regulations
- Sets out the intent for comprehensive plans
- Identifies 10 recommended elements of a comprehensive plan
- Requires comprehensive plans to be adopted like zoning changes (based on consultation with Planning Board & public notice)
- Requires comprehensive plan to be considered during zoning amendments
- Clarifies that a zoning amendment may be adopted even if inconsistent with a comprehensive plan



OVERVIEW

01

**Planning Boards &
Planning Generally**

02

**NC General
Statutes**

03

**Planning Board
& the UDO**

04

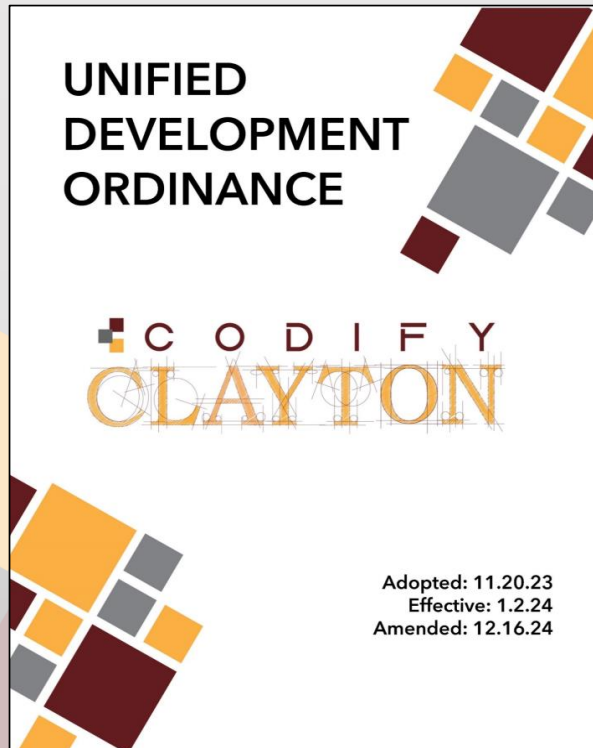
**Public Meeting
Process**

05

Hypotheticals



UNIFIED DEVELOPMENT ORDINANCE & THE PLANNING BOARD



- § 1.8.4 Planning Board
- § 2.3.6 Conditional Rezoning
- § 2.3.8 Conventional Rezoning
- § 2.3.24 Street Renaming/Closure
- § 2.3.26 Text Amendment

UDO § 1.8.4 PLANNING BOARD

- Membership (= 9)
at least 1 from the ETJ
 - Power & Duties
 - Recommendations
 - Special studies
 - Comprehensive Plan
 - Plan compliance review
 - Rules of Procedure
- Conduct Public Meetings
(not hearings)
 - Voting (simple majority)
 - Quorum (= 5)
 - Conflict of Interest
(Avoidance of direct, substantial
financial interest; no familial or
business relationship)

Chapter 2 Applications

Section 2.2 Application Summary Tables

Sub-section 2.2.1 Development Applications

G. Numbers in brackets signify table notes, which are found at the bottom of the table (the table bottom may be on a subsequent page).

TABLE 2.2.1: APPLICATION TYPES TABLE											
Process Type: see Section 2.2.3, Process Diagrams Pre-Application Conference: M = Mandatory; O = Optional; N/A = Not Applicable Type of Action: C = Comment; R = Recommendation; D = Decision; A = Appeal Type of Public Hearing: () = Legislative; = Evidentiary [#] = Table Note (see end of table)											
APPLICATION TYPE	UDO SECTION	PROCESS TYPE	PRE-APP. CONF.	TECH. REVIEW COMMITTEE	TOWN STAFF [1]			PLANNING BOARD	TOWN COUNCIL	BOARD OF ADJUSTMENT	SUPERIOR COURT
					INSPECTIONS DIRECTOR	ENGINEERING DIRECTOR	PLANNING DIRECTOR				
Administrative Adjustment	2.3.1	II	O	C	•	•	D	•	•	A	•
Appeal	2.3.2	III	O	•	•	•	•	•	•	D	A
Annexation	2.3.3	IV	O	C	•	•	R	•	(D)	•	A
Building Permit [2]	2.3.4	I	N/A	•	D	•	•	•	•	•	•
Certificate of Occupancy [2]	2.3.5	I	N/A	•	D	•	•	•	•	•	•
Conditional Rezoning [3]	2.3.6	IV	M	•	•	•	•	R	(D)	•	A
Conservation Subdivision [4]	2.3.7	II	M	C	•	•	D	•	•	A	•
Conventional Rezoning	2.3.8	IV	M	C	•	•	•	R	(D)	•	A
Determination [5] AMENDED 9.16.24 (UDOTA2-24)	2.3.9	I	O	•	D	D	D	•	•	A	•
Development Agreement	2.3.10	IV	O	C	•	C	C	•	(D)	•	A
Driveway Permit	2.3.11	I	O	•	•	D	•	•	•	A	•
Exempt Subdivision	2.3.12	I	N/A	•	•	•	D	•	•	A	•
Fee-in-Lieu [6]	2.3.13	II	O	C	•	D	D	•	•	A	•
Floodplain Permit	2.3.14	I	O	•	•	D	•	•	•	A	•



Chapter 2 Applications

Section 2.2 Application Summary Tables

Sub-section 2.2.1 Development Applications

TABLE 2.2.1: APPLICATION TYPES TABLE

Process Type: see Section 2.2.3, Process Diagrams
 Pre-Application Conference: M = Mandatory; O = Optional; N/A = Not Applicable
 Type of Action: C = Comment; R = Recommendation; D = Decision; A = Appeal
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 [#] = Table Note (see end of table)

APPLICATION TYPE	UDO SECTION	PROCESS TYPE	PRE-APP. CONF.	TECH. REVIEW COMMITTEE	TOWN STAFF [1]			PLANNING BOARD	TOWN COUNCIL	BOARD OF ADJUSTMENT	SUPERIOR COURT
					INSPECTIONS DIRECTOR	ENGINEERING DIRECTOR	PLANNING DIRECTOR				
Land Disturbance Permit AMENDED 9.16.24 (UDOTA2-24)	2.3.15	I	O	•	•	D	•	•	•	A	•
Limited Subdivision	2.3.16	I	O	•	•	•	D	•	•	A	•
Major Subdivision	2.3.17	II	M	C	•	•	D	•	•	A	•
Minor Subdivision	2.3.18	II	O	C	•	•	D	•	•	A	•
Performance Guarantee [7]	2.3.19	II	O	C	•	D	D	•	D	A	A
Sign Permit [8]	2.3.20	I	O	•	•	•	D	•	•	A	•
Site Plan [9]	2.3.21	II	M	C	•	•	D	•	•	A	•
Special Use Permit [10]	2.3.22	III	M	•	•	•	•	•	•	D	A
Stormwater Permit	2.3.23	I	O	•	•	D	•	•	•	A	•
Street Renaming/Closure	2.3.24	IV	M	C	•	•	•	R	(D)	•	A
Temporary Permit	2.3.25	II	O	C	•	C	D	•	•	A	•
Text Amendment	2.3.26	IV	O	C	•	•	C	R	(D)	•	A
Transportation Impact Analysis	2.3.27	I	M	•	•	D	C	•	•	A	•
Tree Clearing Certificate	2.3.28	II	O	C	•	•	D	•	•	A	•
Variance [11]	2.3.29	III	M	•	•	•	•	•	•	D	A
Vested Rights Certificate	2.3.30	III	O	•	•	•	R	•	(D)	•	A



§ 2.3.6 CONDITIONAL REZONING

- Zoning map amendment
 - Type 1 Limited Use
 - Type 2 Limited Standards
 - Type 3 Unlimited
- Requires a Neighborhood Meeting if more intense (§2.4.4)
- Applications are subject to applicant & Town-sponsored conditions
- Type 3 (Unlimited) applications require a concept plan reviewed by TRC prior to Planning Board
- Considered during Public Meeting
- 6 Review criteria (§2.3.6.J)
- Requires recommendation to City Council with written statement of consistency & reasonableness within 30 days

§ 2.3.8 CONVENTIONAL REZONING

- Zoning map amendment (no conditions or concept plans allowed)
- Must consider the full range of allowable uses
- 3rd party downzoning prohibited / City initiated downzoning requires prior owner consent
- Requires a Neighborhood Meeting if more intense (§2.4.4)
- Considered during Public Meeting
- Decision to be based on 4 Review criteria (§2.3.8.I)
- Requires recommendation to City Council with written statement of consistency & reasonableness within 30 days

§ 2.3.24 STREET RENAMING/CLOSURE

- Used to abandon or rename a street
- Abandonment requires a prior Resolution of Intent to Abandon by Town Council
- Applicant-requested renaming requires 75% petition + prior determination of merit by Town Staff
- Requires a Neighborhood Meeting (§2.4.4)
- Considered during a Public Meeting
- Decisions based on 2 criteria for closure; 4 for renaming (§2.3.24.E)
- Written recommendation to Town Council

§ 2.3.26 TEXT AMENDMENTS

- Amendment to ordinance text
- Town-initiated vs. Applicant-initiated (accepted 2x/year)
- Any changes creating nonconformities for existing development in non-residential districts require prior owner's consent
- Considered during Public Meeting
- Decision to be based on 7 Review criteria (§2.3.26.H)
- Requires recommendation to City Council with written statement of consistency & reasonableness

OVERVIEW

01

**Planning Boards &
Planning Generally**

02

**NC General
Statutes**

03

**Planning Board
& the UDO**

04

**Public Meeting
Process**

05

Hypotheticals



PUBLIC MEETING PROCESS

1. Public Meeting Aspects
2. Legislative Procedure
3. Differences between Legislative and Evidentiary Proceedings
4. Site Plans vs. Concept Plans
5. Allowable Factors for Consideration
6. Impermissible Factors for Consideration
7. Conditions of Approval



1. PUBLIC MEETING ASPECTS

- Planning Board conducts public *meetings*, not public hearings;
- However, the Planning Board follows the Legislative Public Hearing Procedure when conducting public meetings
- Public meetings do not require prior public notice to adjacent landowners (like public *hearings* do)
- Public meetings are subject to general “open meeting” public notice requirements



1. PUBLIC MEETING ASPECTS

- Public meetings must be open to the public
- Public testimony at a public meeting is taken only at the discretion of the person chairing the meeting
- The meeting Chair may assign time limits and request representatives to speak for large groups
- Minutes of the meeting must be recorded and made available
- Meetings may be continued (ideally to a date certain)



2. LEGISLATIVE PROCEDURE

1. Staff report/ materials delivered
2. Meeting opened
3. Presentation by staff
4. Applicant presentation
5. Persons in support (Chair discretion)
6. Persons opposing (Chair discretion)
7. Testimony is closed
8. Deliberation
9. Decision
10. Written recommendation & statements of consent/ reasonableness

3. DISTINCTIONS BETWEEN LEGISLATIVE & EVIDENTIARY PROCEDURES

Aspect	Legislative Procedure	Evidentiary Procedure
Purpose	Create policies or laws	Apply rules to specific cases
Formality	Generally Informal	Formal, like a court proceeding
Decision Maker's Level of Discretion	Broad, community-wide	Narrow, case-specific
Standing Required to Testify	No , anyone in attendance may comment	Yes , must have standing to testify
Expert Testimony Required	No , though it may be provided	Yes , with respect to impacts on traffic or property value
Cross Examination by Participants	Not permitted unless authorized by Chair	Permitted
Time Limits for Speakers Permitted	Allowable	Allowable provided the right to present evidence is maintained
Limit Repetitive Testimony	Yes	Yes
Decision Based Solely on the Evidence Presented	No	Yes
Decision Based Solely on Codified Standards	No , discretion may be applied based on allowable factors for consideration	Yes
Ex-Parte Communication	Permitted	Generally prohibited



4. SITE PLANS vs CONCEPT PLANS

SITE PLANS	CONCEPT PLANS
Typically reviewed at end of application process	Typically reviewed at beginning of application process
Used to demonstrate compliance	Used to determine feasibility
Detailed and specific	General
Highly detailed and precise	Conceptual or “high level”
Exact building footprints	General building placement
Exact land uses	Potential land uses
Detailed & dimensioned layout of all site features (parking, landscaping, etc.)	General site layout features/locations
Precise technical calculations and dimensions	General descriptions (but typically to scale)
Stamped or sealed	Unstamped or unsealed
Must be in substantial compliance with an associated concept plan	Submitted as a condition

5. ALLOWABLE FACTORS FOR CONSIDERATION

- Impact on public health, safety, & welfare
- Consistency/effect on adopted policy guidance
- The character of the district where located
- The value of surrounding land and buildings
- The most appropriate use of land
- Efficient and adequate public facilities
- Applicable review criteria



6. IMPERMISSABLE FACTORS FOR CONSIDERATION

- Race
- Religion
- Age
- Ethnicity
- Income
- Gender
- Familial status
- Disabilities
- Ownership status
- The degree to which a development proposal includes affordable housing
- Decisions based on a lack of valid land use rationale (thus arbitrary or capricious)
- Decisions which fail to respect protected uses

7. CONDITIONS OF APPROVAL

(APPLIED TO CONDITIONAL REZONINGS ONLY)

These may be applied to address perceived impacts from the proposed development

Conditions must be:

- Proportional and reasonably related to the impacts
- Measurable and trackable
- In writing, and agreed to in writing by the applicant before the decision is made
- In compliance with federal law
- In compliance with §2.4.10



OVERVIEW

01

**Planning Boards &
Planning Generally**

02

**NC General
Statutes**

03

**Planning Board
& the UDO**

04

**Public Meeting
Process**

05

Hypotheticals



HYPOTHETICAL CASES

- Review and recommendation on a small area plan or a technical plan like a transportation plan
- A Type 1 Conditional Rezoning application seeking to establish a single use type
- A Type 3 Conditional Rezoning for a mixed-use development
- A Conventional Rezoning that seeks to apply a commercial district in the middle of a residential district (spot zoning)



QUESTIONS / FOLLOW-UP?

