



AGENDA MEMO

To: Davidson Board of Commissioners

From: Jason Burdette – Planning Director

Date: May 11, 2021 Regular Meeting

Re: Changes to the Davidson Planning Ordinance (“Text Amendments”) for NCGS Chapter 160D alignment

OVERVIEW

Background – Chapter 160D Land Use Law Updates

In 2019, the North Carolina General Assembly adopted a complete reorganization of the state’s planning and development regulations creating a new statute chapter “160D.” The purpose of the new Chapter 160D is to consolidate county and city regulations into one unified chapter and to reorganize development regulation statutes into a more logical, coherent structure. All towns in the state have until July 1, 2021 to make the necessary changes to their planning ordinances.

In October 2020, the Board of Commissioners approved the first round of DPO changes related to 160D specific to the appeals and variance process (DPO Section 14.18 and Section 15).

Text Changes – Proposed Amendments

These changes can be broadly categorized as technical and non-substantive. The complete list of draft text amendments is attached. The text amendments’ aim is to bring the DPO into alignment with NCGS 160D specific to the following categories: Terminology and citations, geographic jurisdictions, governing boards, land use administration, substance of zoning and other ordinances, legislative decisions, quasi-judicial decisions, administrative approvals, determinations, vested rights, and judicial review.

Additionally, upon staff’s wholesale review of the DPO during this process, three additional changes were identified outside the scope of 160D. These changes were specific to removing an outdated reference to “minor subdivision,” removing the requirement that accessory structures larger than 650 sf require Design Review Board (DRB) approval, and extending the approval of a Certificate of Appropriateness in the Local Historic District from 180 days to 18 months (aligning with current DRB sunsets). The last two provisions were specifically requested by the DRB/Historic Preservation Commission (HPC). Collectively, the three DPO text amendments not associated with 160D alignment are called out separately in the attached draft text document.

REQUESTED ACTION

Tonight, the Board of Commissioners will hold a public hearing as required by the DPO and state statute for legislative decisions. The Board of Commissioners will not be taking any action tonight.

RELATED TOWN GOALS

Strategic Plan Alignment

Equity and Inclusion – Work together to create a culture of belonging, address our past inequities, provide opportunities for all, treat everyone with respect and dignity and recognize every voice.

Core Values

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

Davidson exists in proximity to and is interdependent with other jurisdictions, so we strive for local, regional, state and federal cooperation.

OPTIONS/PROS & CONS

Options: The State has indicated that all municipalities must align their ordinances with the chapter 160D changes by July 1, 2021. These text amendments will complete the required alignment.

Pros: These changes to the DPO related to 160D will:

1. Align this section of the DPO with the relevant provisions in Chapter 160D, which is required for municipalities by July 1, 2021.
2. Clarify/streamline regulatory requirements for easier comprehension by users.

Cons: Per the UNC School of Government, failure to adopt text amendments related to 160D could: put local governments at greater risk to functional operation and potential legal action. Failure to align local ordinance to the state statute will lead to confusion. Additionally, development decisions could be overturned for failure to comply with applicable procedures.

NEXT STEPS

All proposed text amendments will follow DPO Section 14.19.3 regarding process for amending the DPO and applicable state statutes. Following tonight's public hearing, the UNC School of Government will review the proposed DPO changes as will the town attorney. The Planning Board will then review the text amendments proposal to provide a recommendation at their May meeting. Finally, these text amendments will require Board of Commissioners' adoption. Process steps include:

1. **BOC Public Hearing:** May 11th
2. **Planning Board:** Recommendation (Tentative May 24th)
3. **BOC Action:** June work session or regular meeting