

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

**April 16, 2019  
Tuesday, 6:00 p.m.**

**Elon Municipal Building  
Elon, North Carolina**

Attendees: Jim Beasley, Ralph Hardwood, Diane Gill, Monti Allison, Clark Bennett

Member Absent: Mark Podolle

Staff Present: Pamela Graham

**Item A** - Chairman Beasley called meeting to order at 6:00 pm and welcomed the attendees.

**Item B-i – Approval of Minutes from the November 7, 2018 Special Called Meeting and the February 19, 2019 Regular Meeting**

Mr. Allison made a motion to approve the minutes from the November 7, 2018 Special Called Meeting. The motion was seconded by Mrs. Gill and was approved by unanimous vote. Mr. Bennett made a motion to approve the minutes from the February 19, 2019 Regular Meeting. The motion was seconded by Mr. Harwood and was approved by unanimous vote.

**Item B-ii – Recommendation: Appointment of Karla Leath to the Elon Planning Board**

Ms. Leath addressed the Planning Board and described her history with the Town as a resident of the Ball Park community and as an alumna of Elon College. She stated that she is a Family Nurse Practitioner and has been a nurse for thirty years. She also spoke about her family and her vested interest in the Town of Elon and her excitement at being able to serve the Town. The Planning Board members introduced themselves and Ms. Graham described the remainder of the process for approval of Ms. Leath to the Planning Board. Mr. Bennett made a motion to recommend that the Board of Aldermen appoint Karla Leath as a member of the Elon Planning Board, with a term to expire in 2021. The motion was seconded by Mrs. Gill and received a unanimous vote. The Planning Board members thanked Ms. Leath for her interest.

**Item B-iii – Review and Recommendation: Rezoning Request RZ #2019-03 Submitted by Paul Sparks Sr. and Paul Sparks Jr. for Property Located at 514 and 522 E. College Avenue and an Adjacent Unaddressed Parcel on N. Oak Avenue (continued from March meeting)**

Chairman Beasley introduced the item as a continuation from the previous meeting. Ms. Graham began by stating that her presentation is virtually identical to the previous one with the exception of a few street view images of the area in the vicinity of the subject properties. She described the request as a rezoning of three parcels totaling 1.63 acres from Suburban Residential to Urban Residential. There are single family residences on two of the parcels and the third one is vacant. She added that the application describes the intended uses as “duplex designed for future expansion for multi-family housing”. She stated that the Urban Residential district allows duplexes as a use

by right but a conversion to multi-family residential uses will require approval of a special use permit issued by the Board of Aldermen. Ms. Graham then provided descriptions from the LDO of the existing and proposed districts. She showed an enlargement of the Town's zoning map that focuses on the area of the subject properties, and a comparative list of allowable uses for the two districts. She pointed out that the list aligns fairly well between the two districts. She then went on to show a series of slides providing both aerial and street view images of the immediate area and described the existing uses in the area as single family residential with rental properties and owner-occupied residences. Ms. Graham then gave a brief overview of the spot zoning question and reminded the Board that this topic was covered in more detail at the previous meeting and additional detail was provided in the Board's packets. She next covered the consistency with plans issue, stating that the General Assembly has been very specific about whether decisions like this are in keeping with your plan or not, and if they are not, that you provide a statement about why you made that deviation; although you can approve something that is not in keeping with the plan, you must provide a justification for doing so. She further stated that in this case, the Future Land Use Map that is associated with the Comprehensive Land Use Plan adopted in February shows these properties to be Institutional, indicating that they would ultimately become associated with the University. She added that this map is not a zoning map, but it is a long-term view of how the area might evolve. She also stated that there are people in the audience tonight that will have an opportunity to address the Board. Ms. Graham also mentioned that the nearest properties on the Future Land Use Map that would allow multi-family residential uses are north of Haggard Avenue, approximately 350 feet away. Chairman Beasley pointed out that the Institutional category allows dormitories, and would that be considered multi-family? Ms. Graham responded that it is categorized differently, and when we look at the Institutional category, in order for the proposal to be entirely compatible with the Map, the multi-family use would need to be a dormitory-type setting as opposed to a privately owned multi-family structure. Ms. Graham then summarized goals and objectives found in the Plan that are relevant to this proposal. She then stated that based on her assessment of the proposal, the request is not consistent with the Land Use Plan, primarily due to the inconsistency with the Future Land Use and Conservation Map, though the Board may determine that consistency can be found in some of the goals and objectives. She pointed out that the Map does not match up with either the proposed or the existing use on the properties. Ms. Graham then concluded her presentation, asked if there were any questions for her, and informed the Board that Mrs. Sparks wished to address the Board with a presentation that she has prepared.

Following a brief break, Mrs. Sparks introduced herself and stated that she and her husband live in one of the homes involved in the request, and her husband's parents live in the other. She also informed the Board that she is a staff member at the University. She explained that their intent is to start with a duplex and then expand. She mentioned that there were questions at the last meeting regarding what the development would look like and that they don't know yet. She stated that their first step was to get the property rezoned, and then they would go to an architect that would look at the surrounding area, the ordinances, and everything so that they could make it look nice and that they want it to be modest. She showed some slides of the property and also of the adjoining property where the new residence halls are located, which now surround their house. She provided a color-coded slide that showed the properties that contain permanent residents (people who are not renting or are not Institutional). She wanted to show that when we talk about zoning, sometimes we assume that everyone is living there and are happy neighbors and sometimes that is not the case. She stated that it is not that they are not happy living there, but that Thursday, Friday,

Saturday, and Sundays are pretty noisy and there are a lot of students walking back and forth. She stated that looking at the current zoning from the Town's website, she showed that the existing multi-family is not that far and though they are not adjacent to the UR, they are really close to the UR. She further stated that when you look at the use of the places, that multi-family houses are all around them. Mrs. Gill asked Mrs. Sparks to show where the multi-family is located that she described. Mrs. Sparks replied that she is referring to the Institutional that is all around them. Mr. Bennett offered that the dorms hold 300 beds. Mr. Sparks clarified that the multi-family is across the street and to the right. Mrs. Sparks pointed out that there are three houses with permanent residents besides them and everything else is rental and that the zoning says one thing but the use says something different. She then provided more details on some of the specific properties and that even though the zoning is SR, pretty much everything is rental. She stated that this is why they are looking at this with a philosophy of "if you can't beat them, join them". She continued by reminding the Board that one of their questions from the last meeting was, what was the University planning to do with this, and she offered the University's Master Plan and described the Plan's depiction of proposed dormitories on and immediately surrounding the properties being proposed for rezoning. She then made her closing points, including the need for additional housing, and though they will not provide the number of units that the dormitories would, they would be providing some housing with this proposal. She also mentioned the Town's plan calling for sustainability, noting that she bikes to work from home. She mentioned that the area is already connected with sidewalks. She also stated that for them, one of the selling points is that it also preserves Elon's small town character, as mentioned in the Town's plan. Additionally, they are not planning on bulldozing the houses, but they do want to have it open enough so that later on, they could think of something to do with the land that would be good for the family and their future investments.

Chairman Beasley thanked Mrs. Sparks and opened the floor to comments from the public. Mr. Don Scott addressed the Board, introducing himself as a resident of 601 E. College, adjacent to the subject properties. Mr. Scott stated that before this Board makes any type of recommendation, they need to see plans for exactly what the Sparks are talking about. He added that if you zone it for townhomes, it leaves the property open for them selling and someone coming in and building apartments. He stated that he feels that this opens Pandora's Box. He again stated that we should see some plans. He said that though there are a lot of renters on the street, it is still home to them. He finished by saying that he is not in favor of this at this time. Mr. Sparks Jr. asked Mr. Scott if he would like for them to sell the property to the University. Mr. Scott stated that it wouldn't bother him, because the University takes care of their property, maintaining and policing it. He has a problem with not knowing. Mrs. Gill reminded that the request is for rezoning, and then whoever owns the property can do whatever is allowed under the new zoning. She followed by saying that as much as we would all like to know what would happen, we can't consider a plan while we are trying to rezone. Mr. Scott responded that he would like to see a little more of what they plan to do. Mr. Sparks stated that the houses mean something to him and that his plan is not to sell or bulldoze it. He added that at this time his plan is to put something small in, and the zoning would allow him to put in a single family house. He is not interested in a big monstrosity. Mr. Allison spoke to his concern that they are trying to have it both ways. With the land being 1.63 acres, his concern is spot zoning. The applicant is proposing to keep the houses there and putting in a duplex and he wonders if it would even be worth their while with the parking requirements. If they were to tear the buildings down, you could do a lot with 1.63 acres. He stated that he commends the

applicant on wanting to keep the homes, which are beautiful and that Elon needs more of them. He stated he appreciates what they are trying to do, but he also appreciates Mr. Scott's position. Things could change if the University changed their mission and their requirements. Mrs. Sparks responded that this was discussed at the Neighborhood Coalition meeting, and the future of the housing situation for the University is that a Junior class requirement that they live on campus is not expected in the next ten years. She added that if the University acquired all of the property that they want to acquire, they are still adding more students every year. She stated that there will always be a market, no matter what. Mr. Scott stated that the property will be rented to students, because no faculty will want to live there. Mr. Harwood added that at some point the property is going to change hands and though he takes them at their word that, while they are there, they will look after it, but they won't be there forever, and we will have to live with how they zoned the property forever. Chairman Beasley stated that of all of the property in the area, this property is halfway surrounded by dorms and looks like multi-family property. When you look at the street it looks like a residential district, but right behind it are dormitories. He added that he concurs with everybody's concern that with a change to the UR District, Mr. Sparks may not be the one to build on it. Ms. Graham stated that she wanted to touch on Mr. Scott's comments and explained that Elon only allows straight rezoning, not conditional zoning. This means that once it is rezoned, the applicant can build anything that is allowed within that district as a use by right. She also mentioned that the multi-family option requires a special use permit, and that process would require more detailed information on the proposal, including plans. She stated that though we sometimes we do see more detail on a rezoning proposal, that no matter what you have seen, that same developer could build that or something different, or they could sell to someone else who had a completely different idea in mind and as long as it met the requirements of the new district, they could build it. Mr. Allison asked about the recently adopted plan and the ordinance updates that have just begun. Ms. Graham clarified that the adopted plan showing it as Institutional is saying that this is how the property is envisioned by the year 2040, but it does not rezone the property. Mr. Allison asked that if they wanted to do something with the property years down the road, they still have the opportunity even though it says Institutional; would they have to do something to have it rezoned if they wanted to build duplexes, for example. Ms. Graham responded that the property is currently zoned SR, and that no matter what happens with the Plan, it remains SR unless they rezone it or the Town rezones it. She further stated that the Institutional category shown on the Plan is more of a vision, but is not regulatory, and in order to change it, a rezoning request would have to be initiated either by the property owners or the Town.

The Board engaged in additional discussion regarding the potential for spot zoning in this case, particularly with the nearest UR zoned properties being 200 yards to the north. Mrs. Sparks asked the Board if an NR designation would make them more comfortable. Chairman Beasley responded that NR would not allow multi-family, only duplexes. He also pointed out the differences between the allowable uses in the SR and UR Districts and Ms. Graham offered some clarifications on specific requirements and special use permits. Mrs. Sparks addressed the Board regarding the changes to the area over the years and the University's Master Plan. She asked why is the University allowed to invest in property, but not them? And is there an assumption that they would not take care of the property? Ms. Graham noted that if the University wished to build dormitories on this property, they would have to request a rezoning as well. Joel Brown then addressed the Board. He stated that 3-4 years ago we were discussing something similar for other nearby properties and, as he said then, he hears both sides. He added that if the Town zones in favor of

the Sparks, then you need to be ready for 4 or 5 more. He also stated that the problem students are a small percentage. Mrs. Sparks asked if it is a bad thing if others want to do it too because everything around them is rental? She stated that she knows it is zoned single-family, but it no longer is single-family. It is a bunch of rental properties, so would it even be spot zoning anymore? She added that this is very similar to what we have in the 2040 Vision Plan, close to the Schar Center location. Mr. Brown responded by saying that he couldn't answer that; there are good landlords and bad landlords. Mrs. Sparks said that it is already on its way to flipping. Mr. Sparks added that one of the things that made him consider it was looking out at his backyard when the dorms went up. He said that if there is any block in town for multi-family housing, this should be it. Ms. Graham stated that the question regarding spot zoning is worth looking at again. One of the factors is about size. This property, with the exception of the University parcels, is relatively large in relation to the other properties in the district. She also reminded the Board that spot zoning is not a problem unless it is challenged in court. If an aggrieved party challenges a zoning decision, you need to be able to say that you looked at all of these things and determined that our decision was still reasonable. A spot zoning would perhaps be more easily challenged if it was a small piece of property in the context of a larger area of dissimilarly zoned properties. Then, the courts will ask, was your decision compatible with the land development plan. The answer is no, and yet, you still can approve or recommend approval as long as you justify it, and that is what the table at the end of our motion format is for. It includes the statements that justify a deviation from the land development plan. Third, the benefits and detriments (who benefits and who is harmed), and lastly, the relationship of the uses. She stated that Mrs. Sparks is correct in that these properties are still single-family and technically, the uses are still single-family. They don't become multi-family unless you have more than one kitchen or cooking facility and they are separated into separate units. We know that, with the exception of the few that are owner-occupied, many of the properties are occupied by a number of individuals. She reminded that whether this would stand up to a spot zoning challenge would be for a court to decide.

Chairman Beasley asked if there were any more questions or comments. Hearing none, he asked if any member of the Board was prepared to make a motion. Ms. Graham reminded the Board that the motions include recommended statements; however, the statements are at the Board's discretion as to what they want to say.

**Motion #1** – Rezoning Request RZ #2019-03 is or is not consistent with plans adopted by the Town of Elon Board of Aldermen. The proposal is considered by staff to be inconsistent with the adopted Land Development Plan. Mrs. Gill made the motion that the request is not consistent with adopted plans. Mr. Bennett seconded the motion. Vote was 5-0 in favor of this motion.

**Motion #2** – Based on information presented by staff and other interested parties, Rezoning Request RZ #2019-03 does or does not have an acceptable level of impact on both the immediate area and the community as a whole. Mr. Allison made the motion that the amendment does not have an acceptable level of impact. The motion was seconded by Mr. Bennett. Vote on the motion was 4-1 in favor of this motion, with Mr. Harwood dissenting.

**Motion #3** - The Town of Elon Planning Board recommends approval or denial of Rezoning Request RZ #2019-03. Mr. Beasley made a motion for a recommendation of approval of the request and the motion was seconded by Mr. Harwood. The motion failed on a vote of 2 to 3. Mr.

Bennett made a motion for a recommendation of denial and Mr. Allison seconded. The motion was approved on a 3 to 2 vote with Mr. Beasley and Mr. Harwood dissenting.

**Motion #4** – Ms. Graham read the consistency statement recommended by staff, in order to comply with NC General Statutes, as follows: “The proposal is determined to be inconsistent with the adopted Comprehensive Land Use Plan based on the Plan’s designated future use for the properties as Institutional, as well as inconsistencies with Goals and Objectives provided in the Plan. Additionally, the action is considered to be reasonable and in the public interest based on the proposed use’s deviation from the predominant uses in the vicinity of the subject properties, and due to the proposal being considered to be inconsistent with the adopted Comprehensive Land Use Plan. A motion to adopt the provided statement was offered by Mrs. Gill, and seconded by Mr. Bennett. The motion was approved by unanimous vote.

**Item C – Items from Board Members**

Mrs. Gill advised the Board that she has heard from some citizens regarding the deterioration of Summerbell Avenue, she believes on the side of the Elon Homes for Children. The complaints are about student behaviors, including vomiting and other bodily fluids. Ms. Graham stated that some of the activities being described warrant a 911 call and can be considered a health and safety issue.


**Item D – Items from Alderman Davis Montgomery**

Ms. Graham noted that a recap of the most recent meeting was provided in the packet. She added that the process to renew the regional transportation plan has begun and will look for opportunities for input from Board members and citizens. Chairman Beasley noted from the recap that the Shallowford Church Road development has been approved. Ms. Graham advised that the project is in the final stages of TRC review, but the development was approved by the Board of Aldermen.

**Item E – Motion to Adjourn**

A motion to adjourn was offered by Mr. Harwood and seconded by Mr. Bennett. The motion was approved by unanimous vote.

Meeting was adjourned at 7:42 p.m.

  
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Pamela Graham, Planning Director  
Minutes were completed in  
Draft form on August 16, 2019

  
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Jim Beasley, Planning Board Chair  
Minutes were approved on  
August 20, 2019