

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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**HOUSE BILL 249
Committee Substitute Favorable 4/30/03**

Short Title: Wilmington Conditional Zoning.

(Local)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

1 AN ACT TO PERMIT THE CITY OF WILMINGTON TO ENGAGE IN
2
3 CONDITIONAL ZONING.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 495 of the 1977 Session Laws, as amended, being the
6 Charter of the City of Wilmington, is amended by adding a new section to Article
7 XXIII:

8 "Section 23.6.(a) In addition to other types of zoning districts permitted by G.S.
9 160A-382, the City Council may provide for the establishment of conditional zoning
10 districts, including parallel conditional zoning districts. For purposes of this act, a
11 "conditional zoning district" shall be defined as a zoning district in which the
12 development and use of the property included in the district is subject to predetermined
13 ordinance standards and the rules, regulations, and conditions imposed as part of the
14 legislative decision creating the district and applying it to the particular property.
15 "Parallel conditional zoning district" shall mean a conditional zoning district in which
16 the potential permitted use or uses are, except as limited by the conditions imposed on
17 the district, of the same character or type as the use or uses permitted in a general use
18 district having a parallel designation or name. In contrast to conditional use district or
19 special use district zoning, conditional zoning shall not require the issuance of a
20 conditional use or special use permit or permitting process apart from the establishment
21 of the district and its application to particular properties. Rules, regulations, and
22 conditions applicable to any conditional zoning district need not be uniform in all
23 respects for all properties within the same classification of conditional zoning district
24 but may differ based on the unique aspects of each conditional zoning district
25 development, site, and surrounding area.

26 Section 23.6.(b) Property may be rezoned to a conditional zoning district only in
27 response to and consistent with a petition of the owners of all of the property to be
28 included in the district. A petition for conditional zoning must include a site plan and
29 supporting information that specifies the actual use or uses intended for the property and

1 any rules, regulations, and conditions that, in addition to all predetermined ordinance
2 requirements, will govern the development and use of the property. If a petition for
3 conditional zoning is approved, the development and use of the property shall be
4 governed by the predetermined ordinance requirements applicable to such district
5 category, the approved site plan for the district, and any additional approved rules,
6 regulations, and conditions, all of which shall constitute the zoning regulations for the
7 approved district.

8 Section 23.6.(c) Conditional zoning decisions shall be made in consideration of
9 identified relevant adopted land-use plans for the area including, but not limited to,
10 comprehensive plans, strategic plans, district plans, area plans, neighborhood plans,
11 corridor plans, and other land-use policy documents.

12 Section 23.6.(d) Before a public hearing may be held on a petition for conditional
13 zoning, the petitioner must file in the Office of the City Clerk a written report of at least
14 one community meeting held by the petitioner. Notice of such a meeting shall be given
15 to the property owners and organizations entitled to notice as determined by city policy.
16 The report shall include, among other things, a listing of those persons and
17 organizations contacted about the meeting and the manner and date of contact; the date,
18 time, and location of the meeting; a roster of the persons in attendance at the meeting; a
19 summary of issues discussed at the meeting; and a description of any changes to the
20 rezoning petition made by the petitioner as a result of the meeting. In the event the
21 petitioner has not held at least one meeting pursuant to this subsection, the petitioner
22 shall file a report documenting efforts that were made to arrange such a meeting and
23 stating the reasons such a meeting was not held. The adequacy of a meeting held or
24 report filed pursuant to this subsection shall be considered by the City Council but shall
25 not be subject to judicial review.

26 Section 23.6.(e) Conditional zoning decisions under this act are a legislative process
27 subject to judicial review using the same procedures and standard of review as apply to
28 general use district zoning decisions.

29 Section 23.6.(f) Except as specifically modified by this act, the procedures to be
30 followed by the City Council in reviewing, granting, or denying any petition for
31 conditional zoning shall be the same as those established for general use district zoning
32 petitions under Article 19 of Chapter 160A of the General Statutes.

33 Section 23.6.(g) The City Council may not vote to rezone property to a conditional
34 zoning district during the time period beginning on the date of a municipal general
35 election and concluding on the date immediately following the date on which the City
36 Council holds its organizational meeting following a municipal general election unless
37 no person spoke against the rezoning at the public hearing and no valid protest petition
38 under G.S. 160A-386 was filed. If a valid protest petition under G.S. 160A-386 has
39 been filed against a zoning petition which would otherwise have been scheduled for a
40 public hearing during the period beginning on the first day of October prior to a
41 municipal general election, but prior to the new City Council taking office, then the
42 public hearing on such petition and any decision on such petition shall both be
43 postponed until after the new City Council takes office."

44 **SECTION 2.** S.L. 1981-258 is repealed.

1 **SECTION 3.** This act applies only to conditional zoning petitions filed on or
2 after October 1, 2003, and shall not affect any rezoning case that is the subject of
3 pending litigation.

4 **SECTION 4.** This act applies to the City of Wilmington only.

5 **SECTION 5.** This act is effective when it becomes law.