

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 2000-77
SENATE BILL 1289

AN ACT TO PERMIT MECKLENBURG COUNTY TO ENGAGE IN
CONDITIONAL ZONING.

The General Assembly of North Carolina enacts:

Section 1.(a) In addition to other types of zoning districts permitted by G.S. 153A-342, the Board of Commissioners may provide for the establishment of conditional zoning districts, including parallel conditional zoning districts. For purposes of this act, a "conditional zoning district" shall be defined as a zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. "Parallel conditional zoning district" shall mean a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general use district having a parallel designation or name. In contrast to conditional use district or special use district zoning, conditional zoning shall not require the issuance of a conditional use or special use permit or permitting process apart from the establishment of the district and its application to particular properties. Rules, regulations, and conditions applicable to any conditional zoning district need not be uniform in all respects for all properties within the same classification of conditional zoning district but may differ based on the unique aspects of each conditional zoning district development, site, and surrounding area.

Section 1.(b) Property may be rezoned to a conditional zoning district only in response to and consistent with a petition of the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan and supporting information that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district.

Section 1.(c) Conditional zoning decisions shall be made in consideration of identified relevant adopted land-use plans for the area including, but not limited to,

comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

Section 1.(d) Before a public hearing may be held on a petition for conditional zoning, the petitioner must file in the Office of the Clerk to the Board, a written report of at least one community meeting held by the petitioner. Notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by County policy. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this subsection shall be considered by the Board of Commissioners but shall not be subject to judicial review.

Section 1.(e) Conditional zoning decisions under this act are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions.

Section 1.(f) Except as specifically modified by this act, the procedures to be followed by the Board of Commissioners in reviewing, granting, or denying any petition for conditional zoning shall be the same as those established for general use district zoning petitions under Article 18 of Chapter 153A of the General Statutes.

Section 1.(g) The Board of Commissioners may not vote to rezone property to a conditional zoning district during the time period beginning on the date of the general election and concluding on the Tuesday after the first Monday in December immediately following the general election unless no person spoke against the rezoning at the public hearing.

Section 2. This act applies only to conditional zoning petitions filed on or before August 31, 2001. Notwithstanding the foregoing, this act shall not apply to conditional zoning petitions that were approved or denied by the Board of Commissioners prior to April 17, 2000, and shall not affect any rezoning case that is the subject of pending litigation.

Petitions seeking either conditional district rezoning or conditional use district rezoning which were pending and not yet decided as of April 17, 2000, may be treated by the county as petitions for conditional zoning under this act. Such petitions need not be refiled, but all other processes spelled out in this act, including the mandatory neighborhood meeting and report and a new public hearing, must be followed as to such petitions.

Section 2.1. Chapter 1283 of the 1973 Session Laws and Chapter 488 of the 1983 Session Laws are repealed as to the County of Mecklenburg only.

Section 3. This act applies to Mecklenburg County only.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July,
2000.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker Pro Tempore of the House of Representatives