

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**SESSION LAW 2003-162
HOUSE BILL 249**

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

The General Assembly of North Carolina enacts:

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

"Section 23.6.(a) In addition to other types of zoning districts permitted by G.S. 160A-382, the City Council 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 23.6.(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 23.6.(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 23.6.(d) Before a public hearing may be held on a petition for conditional zoning, the petitioner must file in the Office of the City Clerk 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 city 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 City Council but shall not be subject to judicial review.

Section 23.6.(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 23.6.(f) Except as specifically modified by this act, the procedures to be followed by the City Council 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 19 of Chapter 160A of the General Statutes.

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

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 S.L. 1981-258 is repealed.

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

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

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

In the General Assembly read three times and ratified this the 9th day of June, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives