

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1309

Short Title: Apex Conditional Zoning/Roads.

(Local)

Sponsors: Senators Stevens; and Reeves.

Referred to: Finance.

May 25, 2004

A BILL TO BE ENTITLED

1 AN ACT AUTHORIZING THE TOWN OF APEX TO ENGAGE IN CONDITIONAL
2 ZONING AND TO EXPEND FUNDS ON ROADS OUTSIDE OF ITS
3 CORPORATE LIMITS.
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5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 356 of the 1985 Session Laws, as amended, being the
7 Charter of the Town of Apex, is amended by adding a new section to Article VI as
8 follows:

9 "Sec. 6.6. Conditional zoning.

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

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

12 (c) The Board of Commissioners shall make conditional zoning decisions in
13 consideration of identified relevant adopted land-use plans for the area including, but
14 not limited to, comprehensive plans, strategic plans, district plans, area plans,
15 neighborhood plans, corridor plans, and other land-use policy documents.

16 (d) Conditional zoning decisions under this act are made pursuant to a legislative
17 process and are subject to judicial review using the same procedures and standard of
18 review as apply to general use district zoning. Except as specifically modified by this
19 section, the procedures to be followed by the Board of Commissioners in reviewing,
20 granting, or denying any petition for conditional zoning shall be the same as those
21 established for general use district zoning under Article 19 of Chapter 160A of the
22 General Statutes. The consent of the Town or of an owner to a condition, regulation, or
23 rule does not preclude any party from challenging the condition, regulation, or rule as
24 being otherwise unlawful under federal or State law, provided that an action is brought
25 within the two-month statute of limitation set forth in G.S. 1-54.1."

26 **SECTION 2.** Notwithstanding the provisions of Chapter 136 or Chapter
27 160A of the General Statutes, the Town of Apex may appropriate funds not otherwise
28 limited as to use by law to plan, design, construct, install, widen, pave, maintain, repair,
29 reconstruct, replace, or otherwise improve public streets, roads, highways, sidewalks,
30 bikeways, and landscaping in the public right-of-way (including any bridges, traffic
31 control devices, signage, drainage, curb and gutter, and other appurtenances thereto for
32 any such streets, roads, and highways) in areas outside of its corporate limits but within
33 one mile thereof, only if the streets, roads, and highways are owned by the State and
34 maintained by the Department of Transportation and the sidewalks and bikeways are
35 located along public streets, roads, and highways owned by the State and maintained by
36 the Department of Transportation. Any such expenditures made prior to the effective
37 date of this act are confirmed and validated. The Town of Apex may not construct,
38 install, widen, maintain, repair, or otherwise improve streets or roads within the
39 corporate limits of another municipality without the consent of the other municipality.

40 **SECTION 3.** This act is effective when it becomes law.