

Ordinance



City Council
City of Wilmington
North Carolina

Introduced By: Sterling B. Cheatham, City Manager

Date: 01/06/2009

Ordinance Amending the Land Development Code (LDC-5-1208)

LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS Section 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code; and

WHEREAS, the amendment set out below is intended to promote the public health, safety and welfare by amending the Land Development Code to allow an applicant to submit a master land use conceptual plan in lieu of a detailed site plan for Conditional District Rezonings in conjunction with a Development Agreement.

THEREFORE, BE IT ORDAINED:

SECTION 1: Section 18-226. "Purpose" of the Wilmington City Code is hereby amended to read as follows:

"Section 18-226. Purpose.

Conditional zoning districts are zoning districts in which the development and use of the property 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. The following zoning district categories are conditional zoning districts:

Parallel conditional zoning districts (a parallel conditional zoning district is 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 district having a parallel designation of name).

A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some

CERTIFIED TO BE A TRUE COPY
Doreen Spina-Sidbury
City Clerk

land uses are of such a nature that they have significant impacts on both the immediately surrounding area and on the entire community which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted land use plan, adopted area plans and other long range plans. The review process established in this division provides for the accommodation of such uses by a reclassification of the property into a conditional zoning district, subject to specific conditions which ensure compatibility of the use with the use and enjoyment of neighboring properties. A conditional zoning district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period. A separate master plan approval process as described in this division may be utilized only when a proposal is (i) a component of a development project that is the subject of a development agreement between the City of Wilmington and a developer pursuant to North Carolina General Statutes Section 160A-400.20 et seq. ("Development Agreement") or (ii) located within a Large Infill or Redevelopment Priority Area as established in the Future Land Use Plan or the Corridor Plans as adopted."

SECTION 2: Section 18-227. "Plans and other information to accompany petition" of the Wilmington City Code is hereby amended by rewriting the heading to subsection (b) and subsection (b)(1) to read as follows:

"(b) Exception to site plan submittal for (i) proposed conditional zoning districts that are components of development projects that are subject to Development Agreements, and (ii) Infill or Redevelopment areas.

(1) For a proposed conditional zoning district constituting a component of a development project that is the subject of a Development Agreement, or within an Infill or Redevelopment Priority Area as established in the Future Land Use Plan, the applicant shall submit a master land use conceptual plan in lieu of a detailed site plan. City Council approval of the master plan shall be required. Conditions from any adopted district, corridor, or area plan, including the Future Land Use Plan shall be adopted as part of the approval where appropriate. ~~The site plan shall be approved by the technical review committee."~~

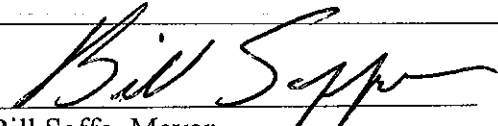
SECTION 3: That any person violating the provisions of this ordinance shall be subject to the penalties set forth in Article XIV, Section 18-52 of the Land Development Code.

SECTION 4: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 5: That if any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

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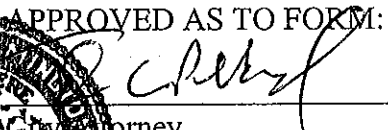
SECTION 6: That this ordinance shall be effective immediately upon its adoption.


Bill Saffo, Mayor

Adopted at a regular meeting
on January 6, 2009.

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

