

Ordinance



City Council
City of Wilmington
North Carolina

Introduced By: Sterling Cheatham, City Manager

Date: 6/1/2010

Ordinance Amending LDC 7-510 to Reserve unto the City Council the Authority to issue Special Use Permits for Nonconforming Uses (Second Reading)

LEGISLATIVE INTENT/PURPOSE:

City Council waived its rules of procedure at the regular meeting on June 1, 2010 to consider an ordinance to amend Section 18-143 of the Wilmington City Code, the Land Development Code. The amendment reserves unto Council the authority to issue special use permits for nonconforming uses. Previously such authority was delegated to the board adjustment. First reading of a handwritten amendment passed, but second reading was delayed pending Council's review of a more formally drafted amendment.

This ordinance and the attachment hereto reflects the substance of the ordinance amendment as discussed at the June 1st meeting with one additional conforming change as reflected in subsection (c) of the ordinance.

THEREFORE, BE IT ORDAINED:

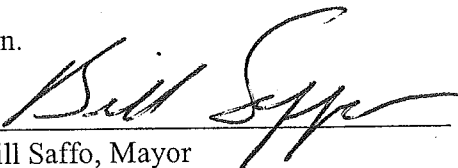
Section 18-143 of Chapter 18 of the Wilmington City Code, the Land Development Code, is amended to strike all references to the phrase "board of adjustment" and to substitute such references with the phrase "city council";

And further that Section 18-143 is amended to add the following sentence at the end of the first paragraph of subsection (b) to read: "The city council shall comply with the provision of Division IV of this Chapter in issuing special use permits pursuant to this Section."

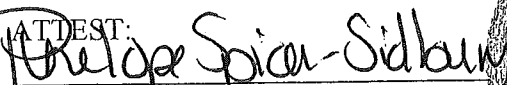
And further that Section 18-143 is amended to rewrite the last sentence in subsection (c) to read: "Subsection 18-88(c) shall apply to special use permits issued by the city council pursuant to this section."

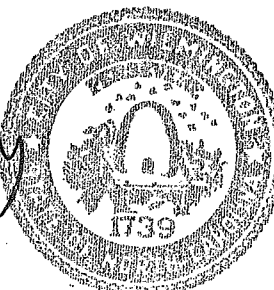
This ordinance shall be effective immediately upon its adoption.

Adopted at a regular meeting
on June 15, 2010.

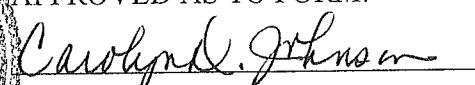

Bill Saffo, Mayor

ATTEST:


Penelope Spicer-Sidbury, City Clerk



APPROVED AS TO FORM:


Carolyn Johnson
City Attorney

O5-2

CITY CLERK
Penelope Spicer-Sidbury
CERTIFIED TO BE A TRUE COPY

Attachment

“Sec. 18-143. Change in kind of nonconforming use.

(a) A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use except as provided herein.

(b) A nonconforming use may be changed to another nonconforming use only in accordance with a special use permit issued by the city council. The city council may issue such special use permit if it finds that the proposed use will be no less compatible with the surrounding neighborhood than the use in operation at the time the approval is applied for. If a nonconforming use is changed to any use other than a conforming use without obtaining city council approval pursuant to this paragraph, that change shall constitute a discontinuance of the nonconforming use, with consequences as stated in section 18-144. A nonconforming accessory use or building may only be changed to another nonconforming accessory use or building as provided in this section. Changes in a principal use are also considered as changes to any accessory use or building. The city council shall comply with the provisions of Division IV of this Chapter in issuing special use permits pursuant to this section.

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(c) If a nonconforming use and a conforming use, any combination of conforming and nonconforming uses, or any combination of nonconforming uses exist on one (1) lot, the use made of the property may be changed substantially (except to a conforming use) only in accordance with a special use permit issued by the city council. The city council shall issue such special use permit if it finds that the proposed use will be no less compatible with the surrounding neighborhood than the use or combination of uses in operation at the time the special use permit is applied for. Subsection 18-88(c) shall apply to special use permits issued by the city council pursuant to this section.

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(d) An application for city council approval pursuant to this section may be made up to one hundred eighty (180) days following abandonment or discontinuance of the previous nonconforming use, provided:

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(1) That the premises has not been used for a conforming purpose at any time following the discontinuance of the previous nonconforming use; and

(2) That this subsection shall not be construed as extending the period specified in subsection 18-144(a).”