GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 731
Commerce Committee Substitute Adopted 5/10/11
Third Edition Engrossed 5/17/11

Short Title: Zoning/Design and Aesthetic Controls. (Public)

Sponsors:

Referred to:

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO CLARIFY WHEN A MUNICIPALITY OR A COUNTY MAY ENACT ZONING ORDINANCES RELATED TO DESIGN AND AESTHETIC CONTROLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-381 is amended by adding a new subsection to read:

"(g) Regulations relating to building design elements adopted under Parts 2 and 3 of Article 19 of this Chapter, or adopted pursuant to any recommendation made under G.S. 160A-452(6)c., may not be applied to single family residential structures in zoning districts with densities of five or fewer dwelling units per acre, except under the following circumstances:

(1) In areas designated as local historic districts pursuant to G.S. 160A-400.4.
(2) In areas listed on the National Register of Historic Places.
(3) To individually designated local, State, or national historic landmarks.
(4) The regulations are directly and substantially related to the requirements of applicable fire and life safety codes adopted under G.S. 143-138.
(5) Where such regulations are imposed as conditions relating to the allowance of density bonuses or modifications of open space, setbacks or required yards, lot coverage, lot size, buffering or screening regulations otherwise generally applicable in a zoning district.
(6) Where applied to manufactured or modular housing in a manner consistent with G.S. 160A-383.1 and federal law.

Regulations prohibited by this section may not be applied either in traditional zoning districts or through districts designated as parallel conditional districts. For purposes of this subsection, the phrase "building design elements" means exterior building color, type or style of exterior cladding material, style or materials of roof structures or porches, exterior nonstructural architectural ornamentation, location or architectural styling of windows and doors, including garage doors, the number and types of rooms, and interior layout of rooms. The phrase does not include: (i) the height, bulk, orientation, or location of a structure on a zoning lot; (ii) the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, and to protect the privacy of neighbors; (iii) features related to accessory buildings and parking and loading areas; and (iv) off-premises and on-premises signs."

SECTION 2. G.S. 153A-340 is amended by adding a new subsection to read:

"(j) Regulations relating to building design elements adopted under Parts 2 and 3 of Article 18 of this Chapter, or pursuant to any recommendation made pursuant to G.S. 160A-452(6)c., may not be applied to single family residential structures in zoning

districts with densities of five or fewer dwelling units per acre, except under the following circumstances:

(1) In areas designated as local historic districts.

(2) In areas listed on the National Register of Historic Places.

(3) To individually designated local, State, or national historic landmarks.

(4) The regulations are directly and substantially related to the requirements of applicable fire and life safety codes adopted under G.S. 143-138.

(5) Where such regulations are imposed as conditions relating to the allowance of density bonuses or modifications of open space, setbacks or required yards, lot coverage, lot size, buffering or screening regulations otherwise generally applicable in a zoning district.

(6) Where applied to manufactured or modular housing in a manner consistent with G.S. 153A-341.1 and federal law.

Regulations prohibited by this section may not be applied either in traditional zoning districts or through districts designated as parallel conditional districts. For purposes of this subsection, the phrase "building design elements" means exterior building color, type or style of exterior cladding material, style or materials of roof structures or porches, exterior nonstructural architectural ornamentation, location or architectural styling of windows and doors, including garage doors, the number and types of rooms, and interior layout of rooms. The phrase does not include: (i) the height, bulk, orientation, or location of a structure on a zoning lot; (ii) the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, and to protect the privacy of neighbors; (iii) features related to accessory buildings and parking and loading areas; and (iv) off-premises and on-premises signs."

SECTION 3. This act is effective when it becomes law and applies to development approvals made on or after the effective date.