

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: April 22, 2025

Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

Requested Motion

Possible motion to adopt a Resolution in Support of Senate Bill 587, An To Clarify Nonconformities in Land Developed, and direct the Town Clerk to provide a certified copy of this resolution to all elected representatives representing the Town of Apex in the North Carolina General Assembly, and All Wake County Municipal Mayors, Town Councilmembers, and Town Clerks and request their support of this legislation.

Approval Recommended?

Yes

Item Details

Senate Bill 587 (SB587) seeks to largely resolve the Downzoning issues created by Session Law 2024-57, which was ratified on December 11, 2025. SB 587 would rework language around nonconforming uses by no longer requiring blanket property owner consent, but rather allowing to continue those nonconforming uses due to changes in land development regulations, until the property owner intentionally and voluntarily discontinued the use. This bill would also allow for the reconstruction and repair of nonconformities, so long as the use or structure was not intensified or expanded in the process. This piece of legislation passed the Senate unanimously on May 07, 2025 and is currently in the House chamber.

The North Carolina League of Municipalities and leaders across many municipalities have worked diligently with leadership in both the Senate and House Chambers to identify a resolution to the downzoning legislation.

The Apex Town Council unanimously voted on February 25, 2025, to adopt a Resolution in Support of House Bill 24 which would have completely repealed the Downzoning legislation.

Additional Background Related to Session Law 2024-57 is included below.

Included in the over one-hundred page piece of legislation, were provisions to amend North Carolina General Statutes 160D-601(d) by prohibiting local governments from enacting or enforcing any zoning regulations, or zoning map amendments, that would constitute “downzoning” without first obtaining the written consent of all property owners whose property would be subject to such an amendment. The new law severely erodes municipal authority to adopt zoning text amendments applicable to entire nonresidential zoning districts and severely limits the authority of local governments to adopt regulations related to residential zoning districts given the time, effort, and cost of identifying all of the owners of the parcels within such zoning districts.

In land use law, “down-zoning” is commonly referred to as rezoning a property to a new zoning district that is less intense or less dense than the prior district. North Carolina Session Law 2024-7 broadened the definition of downzoning and created significant limits to local authority by including any development regulations as prompting a “non-conformity”, effectively banning the creation of any non-trivial developments from occurring. This type of “hand-cuffing” greatly impacts local governments from establishing development standards like parking, setbacks, landscaping, signage, and more, that are at the best interest of their communities

Attachments

- CN4-A1: Senate Bill 587 - Clarify Nonconforming Uses - North Carolina General Assembly
- CN4-A2: DRAFT Resolution in Support of House Bill 587

