



HOUSE BILL 853: Plan Review & Cert. of Occup. Scope Changes.

2021-2022 General Assembly

Committee:	House Local Government - Land Use, Planning and Development. If favorable, re-refer to Appropriations. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	June 17, 2021
Introduced by:	Reps. Brody, Moffitt, Zenger	Prepared by:	Billy Godwin and Jonathan Zator, Committee Counsels
Analysis of:	PCS to Second Edition H853-CSBD-20		

OVERVIEW: *House Bill 853 would limit the scope of requirements for certificates of occupancy and establish certain requirements for local governments when approving development permit applications.*

The Proposed Committee Substitute (PCS) would make stylistic changes, add a reimbursement for infrastructure improvement, and prohibit development regulations on streets and rights-of-way from exceeding Department of Transportation (DOT) standards.

CURRENT LAW: Chapter 160D of the General Statutes contains the processes and procedures local governments utilize for development approvals under their planning and development regulations. A local government is a city or county (160D-102(22)). A development approval is a written administrative or quasi-judicial approval required to commence development or undertake a specific activity and includes zoning, special use, and building permits, plat and site plan approvals, and variances (160D-102(13)). A development regulation is a unified development ordinance; a zoning, subdivision, erosion and sedimentation control, floodplain or flood damage prevention, mountain ridge protection, stormwater control, wireless telecommunication facility, historic preservation or landmark, or housing code regulation; State Building Code enforcement, or any other regulation adopted under Chapter 160D, local act or charter (160D-102(14)).

BILL ANALYSIS:

Section 1 of the PCS would prohibit local governments, when reviewing commercial development plans submitted under the seal of any licensed design professional, from placing additional requirements as a condition of issuing a certificate of occupancy unless otherwise required by an applicable code.

Section 2.(a) of the PCS would:

- Require all local government standards or requirements for approving development permits to be in writing and based on a policy, standard procedure, or ordinance adopted by the governing board that does all of the following:
 - Requires written notice to the developer of any deficiencies in the development permit application to be corrected and the specific corrective action required.
 - Includes a development review schedule with certain requirements including a maximum of 30 days to approve or deny a complete development permit application.
 - Requires the developer to be notified in writing of approval or disapproval of the development permit application.

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Director



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- Requires concurrent review of all development permits related to the same proposed project, or any phase thereof.
- May include formal land use maps, capital improvement plans, or fiscally constrained road improvement requirements.
- All development fees charged by a local government would need to be enumerated in a single fee schedule adopted as part of the local government's annual budget.
- Local governments would be required to, on a quarterly basis and in any format, report compliance with the review schedule.

Section 2.(b) of the PCS would:

- Prohibit local governments from:
 - Requiring a traffic impact analysis until the local government has issued a conditional approval of the development permit and the development project's density is determined.
 - Requiring tree surveys as part of the development approval process unless that local government has a tree ordinance authorized by law and the local government has issued a conditional approval of the development permit.
 - Requiring a biological survey for endangered species as part of the development approval process if the data pertaining to endangered species may be obtained by the local government on a geographic information system (GIS) mapping system publicly available to that local government.
 - Altering a sedimentation and erosion control plan sealed by a licensed engineer unless the development plan is also altered. A local government may not require changes to the sealed sedimentation and erosion control plan if the licensed engineer attests that the required changes will not function properly, unless the local government assumes liability.
 - Requiring a developer to enter into a voluntary agreement that has the intent or effect of reversing, subverting, or modifying State law.
- Authorize local governments to do the following:
 - Regulate portions of any private road, driveway, or parking lot that lies upon the public right-of-way as to slope, width, thickness of the pavement, and design that matches any existing roadway.
 - Acquire land by eminent domain on behalf of a developer for a public purpose if the local government requires rights-of-way for infrastructure installation and require the developer to reimburse the local government monies expended to acquire the land.

Section 3 of the PCS would require reimbursement to the developer for non-contiguous infrastructure improvements related to traffic, water, or sewer that local governments require developers to install as part of the development approval.

Section 4 of the PCS would prohibit local governments from requiring the design and construction standards of streets and rights-of-way to exceed the standards established by the Board of Transportation.

Section 5 of the PCS would appropriate \$20,000 to the North Carolina Building Council to be used to comply with the provisions of House Bill 489 of the 2021 Regular Session, if House Bill 489 becomes law.

EFFECTIVE DATE: This act would be effective October 1, 2021 and apply to development permit applications submitted on or after that date.