

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1463*

Short Title: Transit Rt of Way Protection.

(Public)

Sponsors: Representative McMahan.

Referred to: Transportation, if favorable, Finance.

May 25, 1998

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CERTAIN PUBLIC ENTITIES TO PROTECT RIGHTS-
OF-WAY FOR FUTURE PUBLIC TRANSIT DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A of the General Statutes is amended by adding a new
Article to read:

"ARTICLE 11A.

"Transit Corridors.

"§ 160A-264. Transit corridor official map act.

(a) This Article may be referred to as the "Transit Corridor Official Map Act".

(b) This Article shall apply to any of the following which shall be called the
'entity' in the remaining sections of this Article:

(1) Regional public transportation authorities created pursuant to Article 26
of this Chapter.

(2) Regional transportation authorities created pursuant to Article 27 of this
Chapter.

(3) Cities with a population of 50,000 or more based on the most recent
federal decennial census.

"§ 160A-264A. Transit corridor official map.

1 (a) A transit corridor official map may be adopted or amended by the governing
2 board of the entity for any proposed public transit right-of-way, including proposed right-
3 of-way, adjacent stations and yards, and appurtenant parking facilities. Before an entity
4 adopts a transit corridor official map, the entity shall obtain approval from the board of
5 commissioners of any affected county. No transit corridor official map shall be adopted
6 or amended, nor may any property be regulated under this Article until:

7 (1) The governing board of the entity has held a public hearing on the
8 proposed map or amendment in each affected county. Notice of the
9 hearing shall be provided:

10 a. By publication at least once a week for four successive weeks
11 prior to the hearing in a newspaper having general circulation in
12 the county in which the transit corridor to be designated is
13 located.

14 b. By two-week written notice to the Secretary of Transportation,
15 the Chairman of the Board of County Commissioners, and the
16 Mayor of any city or town through whose corporate or
17 extraterritorial jurisdiction the transit corridor passes.

18 c. By posting copies of the proposed transit corridor map or
19 amendment at the courthouse door of all affected counties for at
20 least 21 days prior to the hearing date. The notice required in
21 sub-subdivision a. above shall make reference to this posting.

22 (2) A permanent certified copy of the transit corridor official map or
23 amendment has been filed with the register of deeds. The boundaries
24 may be defined by a map or by a written description, or by a
25 combination of the two. The copy shall measure approximately 20
26 inches by 12 inches, including no less than one and one-half inches
27 binding space on the left-hand side.

28 (b) Transit corridor official maps and amendments shall be distributed and
29 maintained in the following manner:

30 (1) A copy of the official map and each amendment thereto shall be filed in
31 the office of the entity and in the office of the district engineer for the
32 Department of Transportation.

33 (2) A copy of the official map, each amendment, and any variance
34 therefrom granted pursuant to G.S. 160A-264C shall be furnished to the
35 tax supervisor of any affected county and tax collector of any affected
36 city. The portion of properties embraced within a transit corridor and
37 any variance granted shall be clearly indicated on all tax maps
38 maintained by the county or city for the period during which the
39 designation remains in effect.

40 (3) Notwithstanding any other provision of law, the certified copy filed with
41 the register of deeds shall be placed in a book maintained for that
42 purpose and cross-indexed by number of affected road, street name, or

1 other appropriate description. The register of deeds shall collect a fee of
2 five dollars (\$5.00) for each map sheet or page recorded.

3 (c) Within two years following the establishment of a transit corridor official map
4 or amendment, work shall begin on an environmental impact statement or preliminary
5 engineering. The failure to begin work within the two-year period shall constitute an
6 abandonment of the corridor, and the provisions of this Article shall no longer apply to
7 properties or portions of properties embraced within the transit corridor. An entity may
8 prepare environmental impact studies and preliminary engineering work in connection
9 with the establishment of a transit corridor official map or amendments to a transit
10 corridor official map. When an entity prepares a transit corridor official map that affects
11 property within the planning jurisdiction of a county or a city, other than the city adopting
12 or amending the transit corridor official map, the environmental impact study and
13 preliminary engineering work shall be reviewed and approved by the city or county
14 exercising planning jurisdiction over the affected property.

15 **"§ 160A-264B. Effect of transit corridor official map.**

16 (a) After a transit corridor official map is filed with the register of deeds, no
17 building permit shall be issued for any building or structure or part of any building or
18 structure located within the transit corridor, nor shall approval of a subdivision, as
19 defined in G.S. 153A-335 and G.S. 160A-376, be granted with respect to property within
20 the transit corridor. The entity shall be notified within 10 days of all requests for building
21 permits or subdivision approval within the transit corridor. The provisions of this section
22 shall not apply to valid building permits issued for buildings and structures which existed
23 prior to the filing of the transit corridor provided the size of the building or structure is
24 not increased and the type of building code occupancy as set forth in the North Carolina
25 Building Code is not changed.

26 (b) No application for building permit issuance or subdivision plat approval shall
27 be delayed by the provisions of this section for more than three years from the date of its
28 original submittal.

29 **"§ 160A-264C. Variance from transit corridor official map.**

30 (a) The entity that initiated the transit corridor official map shall establish
31 procedures for considering petitions for variance from the requirements of G.S. 160A-
32 264B.

33 (b) The procedure established shall provide for written notice to the Mayor and
34 Chairman of the Board of County Commissioners of any affected city or county, and for
35 the hearing to be held in the county where the affected property is located.

36 (c) A variance may be granted upon a showing that:

37 (1) Even with the tax benefits authorized by this Article, no reasonable
38 return may be earned from the land; and

39 (2) The requirements of G.S. 160A-264B result in practical difficulties or
40 unnecessary hardships.

41 **"§ 160A-264D. Advance acquisition of right-of-way within the transit corridor.**

42 (a) After a transit corridor official map is filed with the register of deeds, the entity
43 that initiated the transit corridor official map may make advanced acquisition of specific

1 parcels of property when that acquisition is determined by the respective governing board
2 to be in the best public interest to protect the transit corridor from development or when
3 the transit corridor official map creates an undue hardship on the affected property owner.

4 (b) Prior to making any advanced acquisition of right-of-way pursuant to this
5 Article, the entity that initiated the transit corridor official map shall develop and adopt
6 appropriate policies and procedures to govern any advanced acquisition of right-of-way
7 and to assure that any advanced acquisition is in the best overall public interest."

8 Section 2. Chapter 153A is amended by adding a new Article to read:

9 "ARTICLE 12A.

10 "Transit Corridors.

11 "**§ 153A-245. Transit corridor official map act.**

12 (a) This Article may be referred to as the "Transit Corridor Official Map Act".

13 (b) This Article shall apply to any county with a population of 100,000 or more
14 based on the most recent federal decennial census.

15 "**§ 153A-245A. Transit corridor official map.**

16 (a) A transit corridor official map may be adopted or amended by the board of
17 commissioners of the county for any proposed public transit right-of-way, including
18 proposed right-of-way, adjacent stations and yards, and appurtenant parking facilities.
19 No transit corridor official map shall be adopted or amended, nor may any property be
20 regulated under this Article until:

21 (1) The board of commissioners of the county has held a public hearing on
22 the proposed map or amendment in each affected county. Notice of the
23 hearing shall be provided:

24 a. By publication at least once a week for four successive weeks
25 prior to the hearing in a newspaper having general circulation in
26 the county in which the transit corridor to be designated is
27 located.

28 b. By two-week written notice to the Secretary of Transportation
29 and the Mayor of any city or town through whose corporate or
30 extraterritorial jurisdiction the transit corridor passes.

31 c. By posting copies of the proposed transit corridor map or
32 amendment at the courthouse door for at least 21 days prior to
33 the hearing date. The notice required in sub-subdivision a. above
34 shall make reference to this posting.

35 (2) A permanent certified copy of the transit corridor official map or
36 amendment has been filed with the register of deeds. The boundaries
37 may be defined by a map or by a written description, or by a
38 combination of the two. The copy shall measure approximately 20
39 inches by 12 inches, including no less than one and one-half inches
40 binding space on the left-hand side.

41 (b) Transit corridor official maps and amendments shall be distributed and
42 maintained in the following manner:

1 (1) A copy of the official map and each amendment to the map shall be
2 filed in the county manager's office and in the office of the district
3 engineer for the Department of Transportation.

4 (2) A copy of the official map, each amendment, and any variance
5 therefrom granted pursuant to G.S. 153A-245C shall be furnished to the
6 tax supervisor of the county and tax collector of any affected city. The
7 portion of properties embraced within a transit corridor and any
8 variance granted shall be clearly indicated on all tax maps maintained
9 by the county or city for the period during which the designation
10 remains in effect.

11 (3) Notwithstanding any other provision of law, the certified copy filed with
12 the register of deeds shall be placed in a book maintained for that
13 purpose and cross-indexed by number of affected road, street name, or
14 other appropriate description. The register of deeds shall collect a fee of
15 five dollars (\$5.00) for each map sheet or page recorded.

16 (c) Within two years following the establishment of a transit corridor official map
17 or amendment, work shall begin on an environmental impact statement or preliminary
18 engineering. The failure to begin work within the two-year period shall constitute an
19 abandonment of the corridor, and the provisions of this Article shall no longer apply to
20 properties or portions of properties embraced within the transit corridor. A county may
21 prepare environmental impact studies and preliminary engineering work in connection
22 with the establishment of a transit corridor official map or amendments to a transit
23 corridor official map. When a county prepares a transit corridor official map that affects
24 property within the planning jurisdiction of a city, the environmental impact study and
25 preliminary engineering work shall be reviewed and approved by the the city exercising
26 planning jurisdiction over the affected property.

27 **"§ 153A-245B. Effect of transit corridor official map.**

28 (a) After a transit corridor official map is filed with the register of deeds, no
29 building permit shall be issued for any building or structure or part of any building or
30 structure located within the transit corridor, nor shall approval of a subdivision, as
31 defined in G.S. 153A-335 or G.S. 160A-376, be granted with respect to property within
32 the transit corridor. The county shall be notified within 10 days of all requests for
33 building permits or subdivision approval within the transit corridor. The provisions of
34 this section shall not apply to valid building permits issued for buildings and structures
35 which existed prior to the filing of the transit corridor provided the size of the building or
36 structure is not increased and the type of building code occupancy as set forth in the
37 North Carolina Building Code is not changed.

38 (b) No application for building permit issuance or subdivision plat approval shall
39 be delayed by the provisions of this section for more than three years from the date of its
40 original submittal.

41 **"§ 153A-245C. Variance from transit corridor official map.**

1 (a) The county that initiated the transit corridor official map shall establish
2 procedures for considering petitions for variance from the requirements of G.S. 153A-
3 245B.

4 (b) The procedure established shall provide for written notice to the Mayor of any
5 affected city and for a hearing to be held in the county where the affected property is
6 located.

7 (c) A variance may be granted upon a showing that:

8 (1) Even with the tax benefits authorized by this Article, no reasonable
9 return may be earned from the land; and

10 (2) The requirements of G.S. 153A-245B result in practical difficulties or
11 unnecessary hardships.

12 **"§ 153A-245D. Advance acquisition of right-of-way within the transit corridor.**

13 (a) After a transit corridor official map is filed with the register of deeds, the
14 county that initiated the transit corridor official map may make advanced acquisition of
15 specific parcels of property when that acquisition is determined by the board of
16 commissioners to be in the best public interest to protect the transit corridor from
17 development or when the transit corridor official map creates an undue hardship on the
18 affected property owner.

19 (b) Prior to making any advanced acquisition of right-of-way pursuant to this
20 Article, the county that initiated the transit corridor official map shall develop and adopt
21 appropriate policies and procedures to govern any advanced acquisition of right-of-way
22 and to assure that any advanced acquisition is in the best overall public interest."

23 Section 3. This act is effective when it becomes law.