

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 726

State Government, Local Government and Personnel Committee Substitute Adopted
4/28/97

Short Title: Establish Swift Creek Joint Zoning.

(Local)

Sponsors:

Referred to:

April 7, 1997

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING BINDING JOINT PLANNING AND ZONING
3 JURISDICTION FOR THE SWIFT CREEK AREA IN WAKE COUNTY SUBJECT
4 TO MODIFICATION ONLY BY INTERLOCAL AGREEMENT BY AND
5 BETWEEN ALL JURISDICTIONS INVOLVED OR BY ACTION OF THE
6 GENERAL ASSEMBLY.

Whereas, in January 1988, the late Mayor Avery Upchurch of Raleigh invited chief elected officials of the Swift Creek area to meet to discuss the development of a coordinated land-use plan for the area; and

Whereas, the able efforts of elected officials and technical staff of the County of Wake, the City of Raleigh, and the Towns of Apex, Cary, and Garner resulted in the development of the Swift Creek Management Plan in September 1988; and

Whereas, the various local governments having jurisdiction over the area have approved the Swift Creek Management Plan through appropriate action of their respective governing bodies; and

Whereas, the General Assembly finds that it is in the best interest of the citizens of the Swift Creek area and the various local governments to maintain the Swift Creek Management Plan as agreed to by those jurisdictions; and

Whereas, conferring binding joint planning and zoning jurisdiction over the Swift Creek area in accordance with the requirements of the Swift Creek Management Plan is an equitable manner in which to provide for the continuation of the Swift Creek Management Plan to the benefit of the area and the local governments involved; Now, therefore,

1 The General Assembly of North Carolina enacts:

2 Section 1. Notwithstanding any other provision of law, and subject to the
3 provisions of Section 4 of this act, the County of Wake, the City of Raleigh, and the
4 Towns of Apex, Cary, and Garner shall share binding joint planning and zoning
5 jurisdiction, as provided by this act, over the area in Wake County known as Swift Creek
6 and described more particularly in the Swift Creek Management Plan developed in 1988
7 and subsequently submitted by the Swift Creek Planning Committee to the State as the
8 official water supply watershed protection plan for the Swift Creek area.

9 Section 2. The joint planning and zoning jurisdiction shared by the County of
10 Wake, the City of Raleigh, and the Towns of Apex, Cary, and Garner shall be binding
11 upon those jurisdictions in accordance with the requirements of the Swift Creek
12 Management Plan, as approved by the County of Wake on April 2, 1990; the City of
13 Raleigh on May 2, 1988; the Town of Apex on January 3, 1989; the Town of Cary on
14 February 4, 1990; and the Town of Garner in 1989.

15 Section 3. (a) Except as otherwise provided by Section 4 of this act, the Swift
16 Creek Management Plan is established as a binding joint planning and zoning plan that
17 may be modified only by:

18 (1) Interlocal agreement pursuant to Article 20 of Chapter 160A of the
19 General Statutes entered into by all of the affected jurisdictions; or

20 (2) Action of the General Assembly.

21 (b) An interlocal agreement entered into pursuant to this act may include mutual
22 agreement regarding the exercise of all powers granted by Article 18 of Chapter 153A of
23 the General Statutes and Article 19 of Chapter 160A of the General Statutes, including
24 powers involving the exercise of legislative discretion.

25 Section 4. If a jurisdiction affected by this act has an ordinance to effectuate
26 the recommended minimum performance standards for the Swift Creek watershed and
27 the other specific features set forth in the Swift Creek Management Plan, then the
28 jurisdiction may modify its zoning ordinance to further meet or exceed the requirements
29 of the Swift Creek Management Plan without having to:

30 (1) Obtain authorization from the General Assembly; or

31 (2) Enter into an interlocal agreement required by Section 3 of this act.

32 Section 5. The City of Raleigh, and the Towns of Apex, Cary, and Garner may
33 extend utilities unilaterally to any portion of their respective jurisdictions subject to the
34 Swift Creek Management Plan provided that, prior to the effective date of this act, the
35 municipalities zoned or rezoned the subject area in anticipation of providing utilities to
36 the area.

37 Section 6. (a) A jurisdiction affected by this act shall not adopt any ordinance
38 authorized by Article 18 of Chapter 153A of the General Statutes, Article 19 of Chapter

1 160A of the General Statutes, or under any local act or charter provision relating to the
2 subject of those Articles, nor grant any permit or approval pursuant to those ordinances,
3 that would be inconsistent with the standards and provisions of the Swift Creek
4 Management Plan.

5 (b) This act applies to any zoning map amendment and to any other zoning
6 amendment, modification, repeal, or change in zoning regulations and restrictions or zone
7 boundaries relating to the area set forth in the Swift Creek Management Plan, but shall
8 not be construed to prevent any jurisdiction subject to its provisions from adopting
9 zoning ordinance text changes.

10 (c) This act shall not affect any valid and unexpired vested right of any landowner
11 arising by law pursuant to G.S. 153A-344.1 or G.S. 160A-385.1, nor shall this act affect
12 the right of any person to protest zoning changes or otherwise appeal planning,
13 subdivision, or zoning actions as provided by Article 18 of Chapter 153A of the General
14 Statutes or Article 19 of Chapter 160A of the General Statutes or by local ordinance.

15 Section 7. This act is effective when it becomes law, except that Section 4 of
16 this act becomes effective October 1, 1997.