

# **Bond Case Briefs**

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## **ZONING & PLANNING - NORTH CAROLINA**

### **PHG Asheville, LLC v. City of Asheville**

**Supreme Court of North Carolina - April 3, 2020 - S.E.2d - 2020 WL 1650898**

Hotel developer petitioned for writ of certiorari seeking review of city's denial of application for conditional use permit to an eight-story hotel in city's central business district but outside traditional downtown core.

The Superior Court reversed and remanded. City appealed. The Court of Appeals affirmed. City petitioned for discretionary review, which was allowed.

The Supreme Court held that developer presented competent, material, and substantial evidence that proposed hotel satisfied relevant ordinance standards for grant of conditional use permit.

Developer presented competent, material, and substantial evidence to city council that its proposed eight-story hotel in city's central business district but outside traditional downtown core satisfied the relevant standards in city's land use ordinance for grant of conditional use permit, by presenting testimony from architects, an appraiser, a traffic engineer, a certified planner, and developer's vice president, and thus city lacked authority to deny developer's application for conditional use permit absent any competent, material, and substantial evidence presented in opposition to developer's showing.