

**PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 7/30/96

Reference No.: CB-76-1996

Proposer: Del Giudice

Draft No.: 1

Sponsors: Del Giudice, Maloney, and Gourdine

Item Title: An Ordinance concerning appeals for the purpose of clarifying that all appeals to the District Council are an exercise of original jurisdiction

Drafter: Mary Lane
PZ&ED Committee Director

Resource Personnel: Joyce Nichols
Principal Counsel to
District Council

LEGISLATIVE HISTORY:

Date Presented: 7/9/96

Executive Action: __/__/__

Committee Referral:(1) 7/9/96 PZED

Effective Date: 10/28/96

Committee Action:(1) 7/24/96 FAV

Date Introduced: 7/30/96

Pub. Hearing Date: (1) 9/10/96 1:30 PM

Council Action: (1) 9/10/96 ENACTED

Council Votes: SD:A, DB:N, JE:A, IG:A, AMc:A, WM:A, RVR:A, AS:A, MW:A

Pass/Fail: P

Remarks: _____

PLANNING, ZONING & ECONOMIC DEV. COMM. REPORT

DATE: 7/24/96

Committee Vote: Favorable, 5-0 (In favor: Council Members Wilson, MacKinnon, Esteppe, Maloney and Russell).

The Committee considered CB-76 and CB-77 together since they are companion bills. CB-76 is a Zoning Ordinance text amendment, and CB-77 is an amendment to Subtitle 24, the subdivision regulations. Both bills clarify what has always been assumed and has historically been the Council's practice regarding the jurisdiction of the Council when hearing appeals. The bill states that when hearing an appeal from the Planning Board or the ZHE, the Council is exercising original

jurisdiction. This means that in deciding the appeal, they may make the decision based on their own judgement rather than simply determining whether the other body made an error of law or had before it substantial evidence to support its decision.

The Planning Board supports the legislation, and the Office of Law and the Legislative Officer find the bill to be in proper legislative form. Tom Haller, representing the Chamber of Commerce, stated that his organization has taken no formal position regarding this legislation, but asked for clarification regarding the ability of the Council to accept new evidence under the provisions of this bill. Joyce Nichols, Principal Counsel to the District Counsel, pointed out that the language in both bills that states that the decision of the Council shall be "based on the record".

BACKGROUND INFORMATION/FISCAL IMPACT

(Includes reason for proposal, as well as any unique statutory requirements)

Although the Zoning Ordinance does not explicitly state the District Council's jurisdiction when hearing appeals, the Council has always exercised original jurisdiction. This legislation provides clarifying language to specify that the Council is exercising original jurisdiction, which means it can make the decision based on its own judgement in lieu of simply determining whether the Planning Board or Zoning Hearing Examiner (a) made an error of law, or (b) had before it substantial evidence to support its decision.

CODE INDEX TOPICS: