

FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #17-0093/ ZONING – APPEALS TO ZONING BOARD – CORRECTIVE		

TO

DATE:

The Honorable President and
 Members of the City Council
 City Hall, Room 400
 100 North Holliday Street

August 18, 2017

At its regular meeting of August 17, 2017, the Planning Commission considered City Council Bill #17-0093, for the purpose of deleting certain court-imposed statutory provisions, since rendered inoperative by Ch. 596, Acts of 2017, which direct persons aggrieved by land-use decisions of the Planning Commission (among certain other “authorized administrative officer[s] or unit[s]”) to appeal those decisions to the Board of Municipal and Zoning Appeals, rather than seeking their judicial review; conforming the new Zoning Code to decades of City practice and procedures that recognize the final-administrative status of Planning Commission decisions; and providing for a special effective date.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended approval of City Council Bill #17-0093 and adopted the following resolution; seven members being present (seven in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #17-0093 be passed by the City Council.

If you have any questions, please contact Mr. Wolde Ararsa, Division Chief, Land Use and Urban Design Division at 410-396-4488.

TJS/WA

Attachment

- cc: Mr. Pete Hammen, Chief Operating Officer
 Mr. Jim Smith, Chief of Strategic Alliances
 Ms. Karen Stokes, Mayor’s Office
 Mr. Colin Tarbert, Mayor’s Office
 Mr. Kyron Banks, Mayor’s Office
 The Honorable Edward Reisinger, Council Rep. to Planning Commission
 Mr. William H. Cole IV, BDC
 Mr. David Tanner, BMZA
 Mr. Geoffrey Veale, Zoning Administration
 Ms. Sharon Daboin, DHCD
 Mr. Patrick Fleming, DOT
 Ms. Elena DiPietro, Law Dept.
 Mr. Francis Burnszynski, PABC
 Ms. Natawna Austin, Council Services



Catherine E. Pugh
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

August 17, 2017

REQUEST: City Council Bill #17-0093/ Zoning – Appeals to Zoning Board – Corrective:

For the purpose of deleting certain court-imposed statutory provisions, since rendered inoperative by Ch. 596, Acts of 2017, which direct persons aggrieved by land-use decisions of the Planning Commission (among certain other “authorized administrative officer[s] or unit[s]”) to appeal those decisions to the Board of Municipal and Zoning Appeals, rather than seeking their judicial review; conforming the new Zoning Code to decades of City practice and procedures that recognize the final-administrative status of Planning Commission decisions; and providing for a special effective date.

RECOMMENDATION: Approval

STAFF: Eric Tiso

INTRODUCED BY: The Council President, on behalf of The Administration (Law Department)

ANALYSIS

Background: The purpose of this corrective bill is to conform the Zoning Code to the changes made in the Annotated Code of Maryland, Ch. 596, Acts of 2017. Those changes modified the Land Use Article, §10-404(a)(1), which clarifies when the Board of Municipal and Zoning Appeals (BMZA) may hear and decide appeals by adding a new paragraph (II):

10-404.

(a) The Board may:

(1) hear and decide appeals when:

(I) it is alleged that there was an error in any order, requirement, decision, or determination made by an administrative official or unit under this title or any local law adopted under this title; AND

(II) **THE BOARD IS AUTHORIZED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY BY LOCAL LAW OR THE CHARTER OF BALTIMORE CITY; ...**

And also adding new paragraphs (c) and (d):

(C) NOTHING IN THIS SUBTITLE PROHIBITS AN ADMINISTRATIVE OFFICIAL OR UNIT FROM MAKING A DECISION UNDER THIS TITLE OR ANY LOCAL LAW ADOPTED UNDER THIS TITLE WHEN AUTHORIZED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY BY LOCAL LAW OR THE CHARTER OF BALTIMORE CITY.

(D) THIS SECTION DOES NOT ALTER OR IMPAIR THE RIGHT TO APPEAL PROVIDED FOR UNDER THIS SUBTITLE.

The avenue to appeal Planning Commission actions remains through judicial review in the courts, as has always been available, and this bill reinforces that this path remains. The changes in this bill conform to long-standing practice in Baltimore. Many of the actions of the Planning Commission are recommendations, such as to the City Council on legislative actions, which are not zoning decisions, and are therefore not heard by the BMZA on challenge.

Bill Effects: This bill strikes text in §3-202 {"Board of Municipal and Zoning Appeals."} in paragraph (l) referencing decisions "made or imposed under this Code by" and "or by some other authorized administrative officer or administrative unit" in those subparagraphs. Likewise, in Title 19 {"Prohibited Conduct; Enforcement; Administrative and Judicial Review"}, a reference to "or other authorized administrative officer or unit" is also deleted.

Notification: 2,291 individuals received e-mail notice of this action via GovDelivery.



Thomas J. Stosur
Director