March 24, 2005

S 970. LAND-USE PERMIT APPEALS. *TO CLARIFY THE LAW REGARDING APPEALS OF QUASI-JUDICIAL DECISIONS MADE UNDER ARTICLE 19 OF CHAPTER 160A AND ARTICLE 18 OF CHAPTER 153A OF THE GENERAL STATUTES*. Enacts new GS 160A-393 setting out procedures for land-use permit appeals from quasi-judicial decisions, in the nature of petitions for certiorari to the superior court. Sets out criteria for determining standing to appeal and provides for a petition to be filed in the county in which the matter arose. Provides for the court to decide issues based on the record unless the record is insufficient to allow appropriate determination of issues relating to (1) standing; (2) bias or conflict of interest; or (3) constitutional violations or statutory authority. In addition the court may review de novo an issue of whether the decision-making body erred in interpreting an ordinance. Establishes guidelines for a court's determination of appropriate relief to be granted if a decision is not affirmed in whole or in part, and specifies that the court may grant injunctive relief. Enacts new GS 153A-349 making the same provisions applicable to counties. Enacts new GS 160A-377 and 153A-377, providing that when a subdivision ordinance provides for a city council, board of commissioners, or designated planning agency to make quasi-judicial decisions regarding approval of subdivisions plats, the decision is subject to review by the superior court by proceedings in the nature of certiorari pursuant to the procedures described above. When the ordinance provides for only administrative or ministerial determinations as to plats, an aggrieved party may seek review by filing an action in superior court for appropriate declaratory or equitable relief. Applies to actions filed on or after the date the act becomes law.

Intro. by Kinnaird.

Ref. to Judiciary II GS 160A

May 31, 2005

S 970. LAND-USE PERMIT APPEALS. Intro. 3/24/05. Senate committee substitute makes the following changes to 1st edition. Modifies proposed GS 160A-393(c)(2) to provide that a property owners', neighborhood, or similar civic association has standing to seek judicial review of a quasi-judicial land use decision if any of its members would have individual standing, the interests sought to be protected are germane to the association's purpose, and neither the claim asserted nor the relief sought require the participation of individual members of the group. Also modifies proposed GS 160A-393(j), regarding de novo review of interpretations of the ordinance involved in an appeal, to direct the court to give due consideration to the construction of the ordinance applied by the local government where that construction has been thoroughly considered and consistently applied. Makes other technical changes. Changes effective date to January 1, 2006, applicable to actions filed on or after that date.