



CITY OF DUNWOODY

400 Northridge Road

Suite 1250

Dunwoody, GA 30350

Phone: 678.382.6700 • Fax: 678.382.6701

www.dunwoodyga.gov

MEMORANDUM

Date: April 27, 2009

Subject: **Text Amendment for Farmers Market**

Currently the Zoning Ordinance, as adopted by the Dunwoody City Council on December 12, 2008, does not have an allowance to locate a farmers market at a place of worship as a usual and customary accessory use. In order to allow this use the City would need to amend the zoning code.

At the Dunwoody City Council meeting on February 23, 2009, Council directed staff to initiate a text amendment. Staff has researched and compiled the attached amendment. The proposed amendment will make a farmers market an ancillary use to a place of worship, which requires the modification of the existing definition for “place of worship,” supplemental regulation regarding the permitting of farmers markets, and addition of definition for farmers market and four other related terms. Furthermore, for clarity and completeness, the section regarding temporary outdoor sales was modified to allow for farmers markets as an accessory use to a place of worship in any district.

As such, the following attachment includes one modification of an existing definition, five additional definitions, and one supplemental regulation. The text and definitions added were researched by staff using a variety of sources including the United States Department of Agriculture, National Sustainable Agriculture Information Services, Georgia Department of Agriculture, Georgia Department of Consumer Affairs, Georgia Grown Program, Georgia Food Act, Georgia Dairy Law, Georgia Egg Law, and Georgia Meat Compliance Laws.

Furthermore market standards and definitions were reviewed and researched for farmers markets throughout the state of Georgia including Spruill Green Market, Suwanee Farmers Market, Commerce/Jefferson Farmers Market, Cotton Hill Farmers’ Market, and Cherokee Fresh Market.

As with any other amendments to the zoning code, this text amendment was first heard by the Community Council. On March 12, 2009 the Community Council held their inaugural meeting where this text amendment proposal was heard. After a short Public Hearing discussion where several community members and stake holders spoke in favor of the proposal, the Community Council held a short question and answer session. **The recommendation from the Community Council is to approve the attached language as presented.**

This Planning Commission meeting is the second step in the process for the deliberation of a text amendment. On April 14, 2009 at their inaugural meeting, the Planning Commission heard this amendment proposal and conducted an official Public Hearing where the citizenry had their say. Much discussion was had related to the idea of a Farmer’s/Green Market in Dunwoody. The gallery for the Planning Commission was conservatively 75 people, and the vast majority of those persons were there to speak in favor of the idea of a Farmer’s Market being made into an allowable ancillary



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use at faith-based institutions within the city limits. However, there were individuals there at the Planning Commission meeting opposed to the amendment as written.

Overall, those in favor of the amendment approve of the text as written. Those opposed, however, had several concerns: aside from the congestion and pedestrian safety concerns of vehicle parking and ingress/egress, the more fundamental concerns revolved around the idea that allowing specialized retail uses to operate as ancillary to faith-based institutional uses, creates a poorly-regulated opportunity for **all** retail uses to operate in the same manner. In other words, not just raw, perishable goods and value-added farm-raised products manufactured locally would be permitted. Other durable goods retailers could utilize the “Farmer’s Market” clause in the Zoning Ordinance to establish sales venues city-wide, anywhere Farmer’s Markets were permitted. Staff believes that the text of the ordinance, together with the definitions of Farmer’s Market, will allow only those uses meeting the definition of Farmer’s Market to operate at these sites in the city. Additionally, the idea that for-profit ventures are now being permitted to operate under the auspices of a non-profit faith-based operation in residential districts created debate. Finally, the idea that issuing a permit, issued by the Community Development Director or his/her designee would preclude removing the Farmer’s Market if indeed the use proved to be a nuisance. Staff believes that the requirements for review prior to issuance of a permit will attenuate much of the perceived nuisance of each special administrative permit. Also, permits are issued for each venue in one-year increments, meaning each use will dissolve with each new calendar year unless renewed by an organization.

The Planning Commission made and passed a motion by a margin of 4-3 to approve the Farmer’s Market text amendment, but they are very concerned that there need to be conditions attached to the approval of a Farmer’s Market permit. The Commissioners didn’t have any specific conditions to add to their motion, but they felt those conditions should read something akin to (1) restrictions on the number of stalls the Farmer’s Market may have based on the size of the site on which it operates, (2) limiting the hours of operation of the Farmer’s Market, (3) a required relationship between the organization sanctioning the Farmer’s Market and the faith-based organization hosting the Farmer’s Market, and finally (4) restricting each faith-based operation to one Market event per week.

This meeting is the third and final action of the text amendment process. The amendment will be read twice, once on April 27th (the state-mandated Public Hearing), and again on May 11th.



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The following terms were added to **Section 1-17. Definitions.**

On page 8, after “automobile wrecking yard” and before “basement,” a new definition for “baked goods,” as follows:

Baked goods means items that are cooked in an oven such as breads, cakes, cookies, and pies.

On page 14, after “family” and before “fence,” a new definition for “farmers market,” as follows:

Farmers market means a sales venue, most often outdoors and seasonal in nature, at which producers or their representatives offer locally grown produce, value-added agricultural products, and/or fresh baked goods, produced by the seller him/herself, for sale directly to the public. Also called greenmarket.

On page 16, after “gravel pit” and before “greenspace,” a new definition for “greenmarket,” as follows:

Greenmarket. See farmers market.

On page 26, after “pitch of roof lines” and before “plainly audible,” a modification existing definition for “place of worship,” as follows:

Place of worship means a lot or building wherein persons assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship. The term shall also include any of the following accessory uses and buildings: schools, religious education, social gathering rooms, food service facilities, farmers market, indoor and outdoor recreation facilities, child day care center, and kindergarten.

On page 27, after “private right of way” and before “public right of way,” a new definition for “produce,” as follows:

Produce means agricultural products especially fruits, vegetables, herbs, and flowers, which have been grown, raised, foraged, caught, or otherwise produced.

On page 34, after “vacant and undeveloped” and before “van service,” a new definition for “value-added agricultural products,” as follows:



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Value-added agricultural products means raw agricultural product to which value has been added by taking it to, at least the next stage of production; this includes but is not limited to packaging, processing, cooking, churning, culturing, grinding, hulling, extracting, drying, smoking, handcrafting, spinning, and weaving. Examples include honey, jams, jellies, baskets, wreaths, and soaps.

The following supplemental regulation was added to **Section 4-36. Places of Worship, Convents; Monasteries; Temporary Religious Meetings; General Requirements**. On page 247, after “subsection j” and before Sec. 4-37, a new supplemental regulation was added as follows:

The following subsections shall apply to places of worship, convents and monasteries and their related uses, as defined within this Code:

- (a) When located in a residential district, any building or structure established in connection with places of worship, monasteries or convents shall be located at least seventy-five (75) feet from any property line, except where the adjoining property is zoned for nonresidential use, the setback for any building or structure shall be no less than twenty (20) feet for a side-yard and no less than thirty (30) feet for a rear-yard.
- (b) When located in a residential district, the required setback from any property line that adjoins a street right-of-way shall be the front-yard setback for the applicable residential district.
- (c) When located in a residential district, the parking areas and driveways for any such uses shall be located at least twenty (20) feet from the boundaries of any property line, with a visual screen, e.g., a six-foot fence or sufficient vegetation established within that area.
- (d) Places of worship, convents and monasteries in residential districts shall be located on a minimum lot area of three (3) acres and shall have frontage of at least one hundred (100) feet along a public street.
- (e) Places of worship, convents and monasteries in residential districts shall be located only on a major or minor thoroughfare.
- (f) The establishment of sites and tents for temporary religious meetings requires the grant of a special administrative permit by the director of planning. Such tents or sites for any specific location may not be used for a cumulative period of more than fourteen (14) days during any calendar year.
- (g) Any uses, buildings or structures operated by a place of worship that are not specifically included within the definition of place of worship must fully comply with



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the applicable zoning district regulations, including, but not limited to, any requirement for a special land use permit.

(h) Any use, building or structure operated by a place of worship that is included within the definition of a place of worship must comply with the applicable supplemental regulations found in **Sections 4-1**.

(i) Any place of worship, convent or monastery located on a street other than a major or minor thoroughfare shall be a legal non-conforming use if constructed pursuant to a development permit issued between July 30, 1970 and April 13, 1999.

(j) **Subsections (d) and (e)**, above, shall only apply to places of worship, convents and monasteries developed or established after July 29, 1970.

(k) The establishment of sites and tents for a farmers market requires the grant of an annual special event permit by the community development director. Participation in the farmers market is limited to vendors in compliance with all applicable local, county, state, and federal laws.

Furthermore, for clarity and completeness, the section regarding temporary outdoor sales was modified to allow for farmers markets as an accessory use to a place of worship in any district. The following modification was added to **Section 4-50. Temporary Outdoor Sales, Seasonal**. On page 255, the first sentence was split into two separate independent clauses for clarity and completeness.

Sec. 4-50. Temporary Outdoor Sales, Seasonal.

~~Temporary outdoor seasonal retail sales and services, such as sale of plants, flowers, farm produce or seasonal greenery may be permitted in NS, C-1, C-2, M, and M-2 districts, and as an accessory use to a place of worship, upon approval of a special administrative permit by the director of planning or a duly authorized representative thereof pursuant to the following requirements:~~ Temporary outdoor seasonal retail sales and services, such as sale of plants, flowers, farm produce or seasonal greenery may be permitted in NS, C-1, C-2, M, and M-2 districts. Furthermore, temporary outdoor seasonal retail sales and services, such as sale of plants, flowers, farm produce or seasonal greenery may be permitted as an accessory use to a place of worship, upon approval of a special administrative permit by the director of planning or a duly authorized representative thereof pursuant to the following requirements:

(a) Any applicant for a special administrative permit for temporary outdoor seasonal retail sales and services shall have the written authorization of the owner of the property to use the property for temporary outdoor seasonal retail sales and services;



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(b) No such temporary outdoor seasonal retail sales and services shall be conducted on public property or within any public right-of-way.

(c) No such temporary outdoor seasonal retail sales and services shall be approved for a time period exceeding forty-five (45) consecutive days;

(d) No single special administrative permit for temporary outdoor seasonal retail sales and services shall be approved for the same lot or any portion thereof for a total of more than ninety (90) days in any calendar year;

(e) These uses shall be permitted only on lots that have adjacent to them hard surface parking with a curb cut;

(f) No operator, employee or representative shall solicit directly to the motoring public;

(g) As a part of the application for a special administrative permit for temporary outdoor seasonal retail sales and services, a plat of the site that indicates parking shall be provided.

AN ORDINANCE AMENDING CHAPTER 27 OF THE CITY OF DUNWOODY CODE OF ORDINANCES BY A TEXT AMENDMENT TO THE ZONING ORDINANCE IN REGARDS TO FARMERS MARKETS

WHEREAS, Farmers markets are designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood; and

WHEREAS, The Georgia Legislature has enacted statutes to promote the handling, packing, transporting storage, distribution, inspection and sale of agricultural products and to assist producers and consumers in selling and purchasing such products under fair conditions, pursuant to O.C.G.A. § 2-10-51; and

WHEREAS, Farmers markets promote community and further the mission of faith-based institutions by furthering its charitable mission of providing food for the needy; and

WHEREAS, A farmers market is an important element of furthering the goals of a sustainable community; and

WHEREAS, The Mayor and City Council desire to promote farmers markets through a textual amendment to the City of Dunwoody Zoning Ordinance, Chapter 27 of the City Code of Ordinances, as attached hereto and incorporated herein; and

WHEREAS, A properly-advertised public hearing has been held on April 27, 2009 during the First Read of this Ordinance and the Second Read of this Ordinance and adoption is being held on May 11, 2009.

THEREFORE, Mayor and City Council of the City of Dunwoody hereby ordain as follows:

Section 1: The City of Dunwoody Zoning Ordinance, Chapter 27 of the City Code of Ordinances, is hereby amended by amending Sections 1-17 (Definitions), 4-36 (Places of Worship) and 4-50 (Temporary Outdoor Sales) to read as attached hereto and incorporated herein by reference.

Section 2: This Amendment shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED, this ___ day of _____, 2009.

Approved:

Ken Wright, Mayor

**STATE OF GEORGIA
CITY OF DUNWOODY**

ORDINANCE 2009-XX-XX

ATTEST:

Approved as to Form and Content:

Sharon Lowery, City Clerk
(Seal)

Brian Anderson, City Attorney

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(g) Any uses, buildings or structures operated by a place of worship that are not specifically included within the definition of place of worship must fully comply with the applicable zoning district regulations, including, but not limited to, any requirement for a special land use permit.

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