



## CITY OF DUNWOODY

400 Northridge Road  
Suite 1250  
Phone: 678.382.6700 • Fax: 678.382.6701  
www.dunwoodyga.gov

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### **MEMORANDUM**

**To:** Mayor and City Council

**From:** Jennifer Peterson, Community Development Director

**Date:** May 18, 2009

**Subject:** Discussion of Temporary Outdoor Seasonal Sales and Permitting Options

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After the recent controversy surrounding a proposed text amendment to define a farmer's market and the permitting process for such a market, Council asked staff to make some suggestions and define the options available to Council.

When making a policy decision of where to allow certain uses and how to allow those uses, the Council presently has four choices within the structure of our current zoning code.

Allowed by Principle Use: To allow a use by right means that the use is allowed within the zoning district without any further approvals from Council, an appointed board, or by staff. An example would be that a single family home is allowed by right in the R-100 zoning district.

Allowed by Special Land Use Permit: To allow a use in this way is to say that the use might be appropriate on property located within the zoning district. The use itself has operational characteristics and/or impacts that are significantly different from the zoning district's uses allowed by right. Because of these differences individual review against defined standards and criteria is necessary. These requests are decided by the Council after first being heard by the Community Council and the Planning Commission.

Allowed by Special Exception: To allow a use in this way is to say that the use might be appropriate on property located within the zoning district. The use itself has operational characteristics and/or impacts that are significantly different from the zoning district's uses allowed by right. Because of these differences individual review against defined standards and criteria is necessary. These requests are decided by the Zoning Board of Appeals.

Allowed by Special Administrative Permit: To allow a use in this way is to say that the use is appropriate on property located within the zoning district, subject to being in compliance with a set of conditions detailed in the zoning code. These requests are decided by the Community Development Director.

The question of where to allow certain uses and then how to permit those uses is purely a policy question that each Council answers completely uniquely based upon the needs of the community. A zoning code is the tool used to make sure that the development and use of land matches the values and vision of the community. As I reflect on the debate we experienced over the last few weeks, it occurs to me that many of the reasons that the land use choices Council makes this year may be so hard is that we are missing the critical piece of the puzzle, and that piece is the document that states the values and vision of the community. That piece is the comprehensive plan. The comprehensive plan is designed to create a vision of the future so that as questions arise the Council has a policy document to guide the decision at hand. This policy document is crafted through public input and therefore is a reflection of the desires of the community. Although we do legally have that guide, it is not a guide that was created uniquely by this community and therefore may or may not reflect the values.

Therefore, it is my recommendation that the code revision of how and where to allow farmer's markets be included in the zoning code revisions planned for next year so as to create zoning that reflects the policy direction of the comprehensive plan.

Should Council desire an interim solution, staff recommends amending the zoning code to further define temporary outdoor sales of seasonal goods, and to clarify the permitting process by including a public hearing process. Staff will be prepared to address more specific text changes at the work session.