



**CITY OF DUNWOODY**  
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## **MEMORANDUM**

**To:** Mayor and City Council

**From:** Howard J. Koontz, City Planner

**Date:** August 9, 2010

**Subject:** Text amendment to City of Dunwoody Zoning Ordinance

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### **BACKGROUND/DISCUSSION**

Currently, there are no provisions in the Zoning Ordinance that specify the protocol for an applicant to remove a variance application request. The Zoning Ordinance specifies that applications for Special Land Use Permits, which follow the Mayor and City Council tract for approval, may be withdrawn up until the point of advertising. Staff feels that a deadline comparable to the Council's should be considered, amending Chapter 27, Article 5, Division 5, Section 27-1575 to add the following withdrawal requirements:

**Withdrawal of Application by Applicant.**

Applications to the Zoning Board of Appeals shall not be withdrawn after they have been filed for advertising for public hearing in a newspaper of general circulation. Applications may be withdrawn by the applicant or applicant's representative in writing without prejudice at any time before the application has been duly advertised. All fees submitted shall be forfeited in any case where the Zoning Board of Appeals permits the withdrawal of an application.

### **RECOMMENDATION**

Community Council voted on the amendment at their June 10 meeting and approved the motion 6-0.

Planning Commission discussed the proposed ordinance and voted 6-0 to allow a variance application to be withdrawn without prejudice up until the vote of the application by the Zoning Board of Appeals.

**AN ORDINANCE OF THE CITY OF DUNWOODY AMENDING CHAPTER 27 (ZONING ORDINANCE) TO ALLOW FOR LATE WITHDRAWAL OF APPLICATION FOR ZONING BOARD OF APPEALS ACTION**

**WHEREAS,** the City of Dunwoody is charged with providing for the health, safety and welfare of the citizens of the City; and

**WHEREAS,** the City of Dunwoody Zoning Ordinance, codified as Chapter 27 of the City of Dunwoody Code of Ordinances, currently does not specify any protocol for an applicant to withdraw a variance application request; and

**WHEREAS,** the City Council believes that it is necessary to provide an application for ZBA action the opportunity to withdraw the application prior to any ZBA vote in order to not incur consequences of an adverse decision of the Board; and

**WHEREAS,** the first read of this ordinance occurred on August 9, 2010 and a properly advertised public hearing and second read of this ordinance occurred on August 23, 2010.

**THEREFORE, THE MAYOR AND COUNCIL FOR THE CITY OF DUNWOODY HEREBY ORDAIN AS FOLLOWS:**

**Section 1:** Chapter 27 (Zoning Ordinance) of the City of Dunwoody Code of Ordinances shall be amended by adding subsection (5) to Article V (Administration), Division 5 (Variances, Special Exceptions and Appeals), Section 27-1575 to read as follows:

**ADDITIONS – underlined**

**DELETIONS – ~~strikethroughs~~**

**Sec. 27-1575. Notice of Public Hearings.**

Notice of public hearing before the Board on any application for appeal, variances or special exception shall be provided as follows:

...  
...  
...  
...

(5) Applications may be withdrawn by the applicant or applicant's representative in writing without prejudice at any time before the vote of the ZBA on the application. All fees submitted shall be forfeited in any case where the application is withdrawn after it has been advertised for a public hearing in a newspaper of general circulation.

**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 August, 2010.

**Approved:**

\_\_\_\_\_  
Ken Wright, Mayor

**ATTEST:**

**Approved as to Form and Content:**

\_\_\_\_\_  
Sharon Lowery, City Clerk  
(Seal)

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Brian Anderson, City Attorney