

MEMORANDUM

To: Mayor and Council
From: Steve Dush, AICP - Community Development Director
Date: September 17, 2013
Subject: Zoning/Land Development Code Rewrite

BACKGROUND

When the City of Dunwoody incorporated in 2008, many of the zoning and development regulations and procedures set forth by DeKalb County were adopted as the official Code of Ordinances. However, this adoption was always viewed as a temporary measure, intended to provide time for the City to establish a comprehensive planning and policy foundation upon which new Dunwoody-specific land use regulations could be built. In early 2012, the City of Dunwoody partnered with Duncan Associates, a planning firm that has provided zoning and land development ordinance update services to over 150 local governments, for the Zoning and Land Development Code Rewrite. The primary objectives in undertaking this rewrite project were to:

- Help implement and ensure consistency with the City's adopted plans, including the Comprehensive Plan, Transportation plan and Sub-Area Master Plans;
- Identify and eliminate inconsistencies and redundancies among existing City regulations and procedures;
- Better integrate and reference other development regulations;
- Ensure that the zoning ordinance is consistent with state and federal law;
- Prepare development regulations (substantive standards and procedures) that are illustrated and as easy to use, administer and enforce as possible; and
- Improve the development review process.

In order to bring these objectives to fruition, Duncan Associates implemented their time-tested five-phase work plan, which incorporated consequential and ongoing public engagement throughout the process. The first phase focused on issue identification and local reconnaissance, which primarily involved City staff and informal "listening sessions" with various stakeholder groups. The Zoning and Land Development Code Rewrite kicked-off with a public meeting on January 24, 2012. This was the first of many community meetings to discuss the zoning and land development codes for the city. According to attendees, the major issues that needed to be addressed during the project included:

- Relationship of "density" and "intensity" to the provision of infrastructure and services (e.g., schools, open space, roads/traffic...)
- Home occupations
- Making the updated code easy to use and understand
- Improving traffic conditions, if at all possible
- Maintaining and ensuring buffer/transition zones between residential and commercial areas
- Reducing regulations on homeowners
- Maintaining residential areas' integrity

These concerns were identified as part of the primary focus during the second phase, where the firm explored new ideas and concepts for dealing with them and began to establish a broad outline for the new ordinances' frameworks.

In order to help guide the conception of the developing ordinances, the Mayor and City Council appointed a Sounding Board, comprised of seven members from the community, who served as constructive benchmarks to the local values that the prospective regulations needed to reflect. The Sounding Board was heavily utilized throughout the third and fourth phases, which consisted of the preparation and delivery of multiple ordinance drafts. With each draft submission, members of the Sounding Board completed a section-by-section analysis, released in modules, and provided comments/ recommendations to the consultant and City staff.

Augmenting the efforts of the Sounding Board was an extensive public outreach process, which included presentations to the Dunwoody Homeowners Association and various City Boards and Commissions such as the Community Council, Planning Commission, Sustainability Commission, and Zoning Board of Appeals. The City also conducted community-wide public outreach meetings following the release of each draft module. These public outreach efforts were further enhanced by the project's website, www.zoningdunwoody.com, which not only utilized the opportunity for real-time blogging and issue discussions, but also housed all the information and materials of the venture in one convenient location. Since the project's inaugural kick-off meeting, the outreach efforts have comprised of:

- The Sounding Board Members meeting to discuss draft ordinances seven times;
- Holding six public meetings to gather input on major ordinance stipulations;
- Two public educational sessions discussing sustainability practices and the importance of stream buffers;
- Updating the Zoning Board of Appeals on the project's status fourteen times;
- Updating the Sustainability Commission on the project's status thirteen times;
- Updating the Community Council five times on the project's status; and
- Updating the Planning Commission on the project's status seven times.

The primary purpose of all these outreach efforts mentioned above was to develop a code that forwards Dunwoody's history of engaged city planning by producing zoning and land development codes through an iterative process of receiving and responding to feedback on key ordinance provisions. While every change that occurred to the regulations is identified, the more substantive changes to each chapter are identified on the first page of the proposed draft for review tonight.

EXECUTIVE SUMMARY

At the Special Called Meeting on August 5, 2013, Mayor and Council reviewed the amendments to City Code Chapter 27, Zoning, and Chapter 16, Land Development, for a first read. Members of the Council had an in-depth discussion on the topics that were previously discussed by the Community Council and Planning Commission. While the public meetings held previously focused heavily on clarifying information for some of the updated ordinance provisions, a strong emphasis was placed on nineteen amendments in particular. The following table summarizes these key topics and has been augmented to include the discussion points from Mayor and Council's August 5th meeting:

Community Council			
Topic	What We Heard	CC Action Taken	MC Discussion
Tree Removal (Section 16-10.50-D)	Homeowners should be allowed to remove more than one specimen tree per calendar year	Motioned to eliminate the requirement for a permit to remove one specimen tree per calendar year. The motion was voted and passed (5 - 0).	Council indicated agreement with CC action.
Public and Civic Sites (Section 16-16.80)	Developers should not have the ability to reserve property for civic uses during the plat process	Motioned to remove Section 16-16.80 from Chapter 16. The motion was voted and passed (3 - 2). Claire Botsch and Debbie Montgomery were the dissenting votes.	Council indicated that they would like the section to remain in the ordinance so as to provide clarity and transparency.
Food Trucks (Section 27-9.80)	Need clarification as to whether or not ice cream trucks are considered food trucks	No further action was taken. Staff determined, pursuant to Section 18-19(b)(16), ice cream trucks are considered "sound trucks," which are declared to be loud, disturbing, and unnecessary noise in violation of the noise ordinance regulations. Therefore, because of the noise they emit and the fact that retail sales are not a permitted use in residential districts, ice cream trucks are prohibited.	Council indicated support for food trucks and ice cream trucks in the City, and showed interest in a text amendment of Chapter 18, Section 18-19(b).
Temporary Outdoor Sales (Section 27-11.30-D)	90 days is too long for temporary outdoor seasonal sales	Motioned to change 90 days to 60 days for temporary outdoor seasonal sales. The motion was voted and passed (4 - 0). Tony Delmichi abstained.	Council indicated agreement with CC action.
Location of Off-Street Parking (Section 27-12.60-B)	Trailers and recreational vehicles should be allowed to park closer to property lines	Motioned to reduce the parking requirements of trailers, recreational vehicles and similar vehicles to the property line. The motion was voted and passed (5 - 0).	Council indicated that the regulation of a 10-foot buffer from any lot line should remain in the ordinance.
Concurrent Variances (Section 27-18.110)	Mayor and Council should not have the ability to approve variances simultaneously with amendment applications	Motioned to remove concurrent variance regulations from Chapter 27. The motion died due to lack of a second as the remaining members preferred the concurrent variance option.	Council indicated a lack of support for the addition of concurrent variance provisions.
Planning Commission			
Topic	What We Heard	PC Action Taken	MC Discussion
Tree Removal (Section 16-10.50-D)	Homeowners should be allowed to remove more than one specimen tree per calendar year.	Motioned to remove Section 16-10.50-D. The motion was voted and passed (5 - 0).	Council indicated agreement with PC action.
Exemptions (Stream Buffers) (Section 16-8.40-A)	Homeowners should be allowed to build or replace structures in the City stream buffer with the minimum amount of land disturbance activity needed.	Motioned to amend Section 16-8.40-A to allow limited land disturbance to build or rebuild decks, porches, and accessory uses up to the 25 foot state stream buffer. The motion was voted and passed (4 - 1). Bob Dallas dissented.	Council indicated agreement with PC action; however, this might not meet the minimum requirement from MNGWPD. Further discussion is necessary.

Access Management (Section 16-16.20-T)	Deceleration lanes are not always necessary and possibly should not be reliant upon Georgia DOT standards.	Motioned to change wording in Section 16-16.20-T(9) from "must" to "should." The motion was voted and passed (5 - 0).	Council indicated support of the language, as written, in the proposed ordinance.
Application Filing (Appeals of Administrative Decisions) (Section 16-5.80-C)	Application deadlines need to be consistent across the entire spectrum of regulations.	Motioned to change the appeal deadline to 30 days in Section 16-5.80-C. The motion was voted and passed (5 - 0).	Council indicated agreement with PC action.
Minor Subdivision Procedure (Article 14)	Neighborhoods need to receive public notice of minor subdivisions so as to provide an opportunity for any comments/ concerns to be made.	Motioned to include a provision for public notification in the Minor Subdivision regulations. The motion was voted and passed (4 - 1). Paul Player dissented.	Council indicated agreement with PC action.
Uses Allowed (Residential Zoning Districts) (Section 27-4.20)	Stables should be allowed in the R-150 zoning district.	Motioned to change Article 4 to include stables in R-150. The motion was voted and passed (6 - 0).	Due to the limited number of R-150 zoning districts, Council indicated that stables do not need to be included as a permitted use.
Single-Dwelling Districts (Section 27-4.30-B)	The rear setback requirement of 40 feet is too restrictive.	Motioned to reduce rear yard setback from 40 feet to 30 feet. The motion was voted and failed (3 - 3). Motioned to reduce rear yard setback from 40 feet to 35 feet. The motion was voted and failed (3 - 3). Bob Dallas, Bill Grossman, and Renate Herod were the dissenting votes.	Council indicated the rear setback regulations should remain the same at 40 feet.
Establishing a Planned Development (Section 27-6.20-B)	Planned developments should be allowed outside two subareas; the current regulations are too restrictive.	Motioned to allow planned developments in any appropriate mixed-use category where it meets the requirements of 10 acres for existing commercially zoned properties and 25 acres for existing residentially zoned properties. The motion was voted and passed (5 - 0 - 1). Paul Player abstained.	Council indicated support of the PC action as well as interest in revisiting the topic with additional information from Staff about 15 acres versus 25 acres for existing residentially-zoned properties.
Residential Composting (Section 27-10.60)	Provisions on composting needed to be updated to include prohibition on meat products and inclusion of waste from non-carnivorous animals.	Motioned to add note to Section 27-10.60 to prohibit meat products, eliminate Section 27-10.60-B and Section 27-10.60-C, and allow waste from herbivores to be used in composts in Section 27-10.60-G The motion was voted and passed (6 - 0).	Council indicated support of the PC action.
Temporary Portable Storage Containers (Section 27-11.30-E)	Provisions need to be added to the maximum amount of time a temporary portable storage container can be located on a property when a construction permit is involved; 60 days is too short.	Motioned to add language to Section 27-11.30-E for buildings under construction to be allowed temporary portable storage containers for a maximum of 120 days. The motion was voted and passed (6 - 0).	Council indicated support of the PC action, with the added provision: If a project is completed before the 120 days expires, a C.O. or C.C. will not be issued until the temporary portable storage container has been removed from the property.

<p>Maximum Height (Fences and Walls) (Section 27-15.20)</p>	<p>If homeowners have a nonconforming fence on their property, and the fence needs to be replaced due to damage and/or deterioration, the city's height requirements should not be enforced.</p>	<p>Motioned to replace nonconforming fences of the same height. The motion was voted and passed (6 - 0).</p>	<p>Council indicated no change from the draft is necessary.</p>
<p>Landscape Material and Design (Section 27-13.80)</p>	<p>Limiting the minimum size of shrubs and ornamental grasses to 3-gallons seems too large and the footnote to Section 27-13.80-I(3) needs to be removed if the city arborist is no longer considering revisions to the provisions.</p>	<p>Motioned to change Section 27-13.80-E for the minimum size of shrubs and ornamental grasses to be 1-gallon and remove the footnote in Section 27-13.80-I. The motion was voted and passed (6 - 0).</p>	<p>Council indicated agreement with PC action.</p>
<p>Neighbor Communications Summary (Section 27-19.40)</p>	<p>Applicants should not be allowed to use forms of social media to advertise pre-submittal neighborhood meetings for special land use permits.</p>	<p>Motioned to specify in Section 27-19.40 a form of communication the City can easily confirm and document without relying on information from neighbors in the 500-foot radius and instead requires an affidavit from the applicant. The motion was voted and passed (5 - 0 - 1). Paul Player abstained.</p>	<p>Council indicated no change from the draft is necessary</p>
<p>Terms Beginning with "H" (Section 27-32.10-H)</p>	<p>The inclusion of pit bulls as non-household pets is contradicting to the definition of companion animals, which includes domestic dogs.</p>	<p>Motioned to remove the term "pit bull" from the household pet definition. The motion was voted and passed (5 - 1). Paul Player dissented.</p>	<p>Council indicated agreement with PC action, and called upon Staff to come back with a better description of household pet and how they should be regulated.</p>

At their first read, Mayor and Council provided input on all topics raised from Community Council, Planning Commission, and Staff. Due to time limitations, several topics were highlighted as needing further discussion as a reset of the first read of the document. These included:

- Minimum project sizes for existing residentially-zoned properties rezoned to Planned Development Districts (Section 27-6.20)
- Home occupations (Section 27-10.30 and attached white paper)
- Household pets (Section 27-32.10-H: companion animal provision proposed below)
- Rooming house (proposed below-not currently in draft)
- Stream buffers (Section 16-8.10)

Council provided Staff a list of those items that required discussion that had not been previously addressed. These items, as well as the items requiring further discussion, will frame the discussion for the September 17 meeting:

- Zoning districts for health clubs and other participant sports (Section 27-5.20)
- Adult use issues (Section 27-8.40-A)
- Front yard gardens (potentially Section 27-9.50)
- Kindergarten/day care fencing (Section 27-9.110)
- Bicycle parking (Section 27-12.5)
- On-street parking (Section 27-12.10)
- Shared parking (Section 27-12.40-E)

- Public hearing notice requirements (Section 27-18.60)
- Appeals of administrative permits (Section 27-24.10)
- Nonconforming multi-family uses in O-I (Section 27-29.10)
- Single-family residences and households (Sections 27-4.10-B, 27-8.20-A, 27-32.10-D, and 27-32.10-H)
- Bike lanes/sharrows (Section 16-16.20-J)
- Sidewalks (Depends on nature of interest)

Many of the aforementioned topics required additional research and input from Staff –the results of which are manifested in text amendments below and attached white papers. Additional discussion may be needed to decide if the amendments are sufficient for clarifying information.

Council requested Staff revise the location of the “definitions sections” so they are consistent between the chapters. This change will be completed when the transmitted draft is cleaned and distributed in the packet for the second read.

Lastly, after the special called meeting in August, Staff was contacted by the Atlanta Apartment Association with concerns of the proposed nonconforming language as they relate to multi-family uses and structures; the memo from the Association is attached. The primary issue the Atlanta Apartment Association had was losing the ability to rebuild if various willful damages occurred outside of their control. As a result, Staff is currently working with the Association on language that forwards the intent of the proposed regulations while addressing their concerns.

ANALYSIS

Recent Revisions

The following provisions are amended from the transmitted draft as a result of successive staff examination of the draft.

1. **Section 27-2.50** Expired, Obsolete and Converted Zoning Districts
2. **Section 27-4.30** Lot and Building Regulations: Variable Lot Coverage Ratios
Due to additional items being raised from the meetings, such as building lot coverage, staff reassessed the proposed “straight-line” percentage increase and formulated a more thought-out variable approach for larger lots, as outlined below.

Regulation	R-150	R-100	R-85	R-75	R-60	R-50	RA-5	RA-8
Maximum Lot Coverage (%)								
Lot area = 43,560 sq. ft. or more	25	25	25	25	25	25	25	25
Lot area = 30,000 to 43,559 sq. ft.	30	30	30	30	30	30	30	30
Lot area = 20,000 to 29,999 sq. ft.	35	35	35	35	35	35	35	35
Lot area = 19,999 sq. ft. or less	40	40	40	40	40	40	50	50

3. Section 27-8.20-B. Group Living: specific use type added

...
Rooming House

A building containing one or more lodging units but not more than 20 lodging units, all of which offer non-transient lodging accommodations, available only at weekly or

longer rental rates to the general public. Meals may only be provided from a single central kitchen and compensation for such meals, if provided, must be included in the weekly or longer rental rate. No restaurant, meeting, reception, or banquet facilities are allowed as part of a rooming house use.

4. **Section 27-9.20 Attached Houses**

The following building separation requirements apply to all attached house buildings on sites containing 2 or more attached house buildings. For the purpose of these provisions, the front and rear faces are those exterior building walls generally perpendicular to the party (or abutting) walls between dwelling units and the side face is the exterior building wall that is generally perpendicular to the building's front and rear faces.

5. **Section 27-9.120 Multi-unit Residential Buildings**

The following building separation requirements apply to all multi-unit buildings on sites containing 2 or more multi-unit buildings. For the purpose of these provisions, the front and rear faces are those exterior building walls generally perpendicular to the party walls between dwelling units and the side face is the exterior building wall that is generally perpendicular to the building's front and rear faces.

6. In order to amend the restrictive nature of the definition for household pets, staff removed the section and replaced it with "Keeping of Companion Animals." It reads:

Section 27-10.40 Keeping of Companion Animals

The keeping of a cumulative total of up to 3 adult, companion animals is allowed as an accessory use to any residential use. The care or keeping of 4 or more companion animals, in cumulative total, is considered "animal care/boarding" and is allowed only in zoning districts that allow animal care/boarding uses. Litters of animals of not more than 6 months of age are not counted for the purpose of calculating the total number of companion animals.

7. **Section 27-30.20 Lot Frontage**

Clarification for frontage measurements added.

8. **Section 27-32.10-L.** Terms Beginning with "L": definition removed

~~Lot width means the horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the street.~~

9. **Section 27-32.10-H.** Terms Beginning with "H": definition removed

~~Household pet means a domestic companion animal that is customarily kept for personal use and enjoyment including domestic dogs, domestic cats, canaries, parrots, parakeets, domestic tropical birds, hamsters and guinea pigs. Household pet does not include livestock, poultry, pot belly pigs, pit bulls, or snakes.~~

10. Section 27-10.40 Household Pets, which was inadvertently omitted from previous drafts, has been removed and replaced with "Keeping of Companion Animals."

Section 27-10.40 Household Pets

~~No more than 3 household pets may be kept on any lot in a residential zoning district, except that on lots exceeding 2 acres in area, one additional household pet may be kept for each additional acre of lot area in excess of 2 acres, up to a maximum of 10 household pets. Litters of animals of not more than 6 months of age are not counted for the purpose of calculating the total number of household pets on a lot in a residential zoning district.~~

10. Section 16-9.30-D. Drainage Outfalls

The drainage system from a proposed development must discharge into an outfall that has adequate capacity to accommodate the runoff from the development. If the connecting downstream system is not able to accommodate the allowable design flow from the site, then the design engineer must design on-site drainage facilities that result in no exacerbation of existing downstream conditions.

RECOMMENDATION

In the interest of clarity and efficiency, staff recommends the following procedure for managing the transmitted draft and subsequently proposed amendments:

- First Read:
 - Hear staff's summary of the process and recommendations.
 - Discuss the draft sequentially, identifying those sections City Council would like to address with a vote at the Second Read. Staff will take note of those sections.
 - Review each of the proposed amendments by the public, Community Council, Planning Commission, and staff, identifying those sections City Council would like to address with a vote at the Second Read.
- Second Read:
 - Hold the Public Hearing and public comments.
 - Staff will provide the recorded list of sections contemplated for a vote at the First Read.
 - Conduct the motions for amendments to the transmitted draft.
 - Vote on whether to accept, defer, or deny the transmitted draft and all proposed amendments.

Staff recommends the codification of City Code Chapters, 27, Zoning and 16, Land Development, and those **Recent Revisions**, be **approved**.

At their regular June meeting, the Community Council heard the City's request to codify amendments to City Code Chapters 27, Zoning, and 16, Land Development, and recommended approval with additional amendments. The motion passed (4 - 0 - 1). Tony Delmichi abstained.

The Planning Commission, at their regular July meeting, reviewed the requested amendments to City Code Chapters 27 and 16 and made a motion to approve with staff recommendations, subject to the Commission's amendments. The motion was voted and passed (6 - 0).

Attachments

- Community Council Meeting Minutes from June 13, 2013
- Planning Commission Meeting Minutes from July 9, 2013
- Chapter 16 – Land Development Regulations
- Chapter 27 – Zoning Ordinance
- Home Occupations Research
- Atlanta Apartment Association Memo