



CITY OF DUNWOODY

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MEMORANDUM

To: Mayor and City Council

From: Jennifer Peterson, Community Development Director

Date: March 16, 2009

Subject: **Zoning Code**

The zoning code was adopted by Council on December 18th. Since that time city staff has reviewed the text in detail and found various inconsistencies, mistitling, and unclear language. Staff's proposal clarifies the intent and procedures of the code adopted in December without proposing policy changes.

The majority of changes listed on the attached detail sheet modify the county staff titles of the department administering the code to city titles. The most of the other changes pertain to removing references to the noise ordinance since there are existing noise regulations within the City Code of Ordinances administered by the police department.

Should Council direct staff to initiate this request, it could be heard by Community Council in April, Planning Commission in May, and return to Council for a first and second read on May 25th and June 8th, respectively.

Zoning Ordinance clean-up comments

1. Page viii – TOC, insert ‘R’ into Office-Commercial-Residential acronym:

“Division 2W. OCR (Office-Commercial-Residential) District”

2. Page 2 – Sec. 1-4: ...2008 Ga. Laws ____,... Blank should be filled in, to be determined by the City Attorney upon initiation of text amendment.

Add reference to the Community Council to reflect their role in our decision making process.

“(p) To implement the authority, powers and duties of the community council, planning commission and the zoning board of appeals pursuant to state and local law.”

3. Page 6 – Sec. 1-17, all references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~“A” weighted sound level means the sound level reported in units of dB(A) approximating the response of human hearing when measuring sounds of low to moderate intensity as measured using the “A” weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.~~

4. Page 8 – Sec. 1-17, all references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~Boom box means any self-contained, portable, hand-held music or sound amplification or reproduction equipment capable of emitting sound.~~

~~Boom car means any vehicle with loudspeakers, amplifiers, radio receiving sets, musical instruments, phonographs or other equipment capable of producing, reproducing or emitting sound which is cast upon the public streets for personal or commercial purposes.~~

5. Page 10 – Sec. 1-17, all references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~“C” weighted sound level means the sound level reported in units of dB(C) as measured using the “C” weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.~~

6. Page 11 – Sec. 1-17, *Commercial district* will be re-written for clarity, to read as follows:

Commercial district means any parcel of land which is zoned for any commercial use including regional commercial centers, neighborhood and community oriented stores, shopping centers and other developed centers where commercial land uses predominate. Such districts would include O-I, O-I-T, C-2, O-D, NS, C-1 ~~and any property zoned OCR~~

~~excluding property used for residential use and any exclusively non-residential portion(s) of any parcel(s) zoned OCR.~~

7. Page 12 – Sec. 1-17, all references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~Complainant means any person who has registered a noise complaint with an authorized enforcement agency that he or she is the recipient of noise on a protected property category. A complainant must have an interest in the protected property as an owner, tenant, or employee.~~

~~Continuous sound means any sound with duration of more than one (1) second, as measured with a sound level meter set to the "slow" meter response.~~

8. Page 13 – Sec. 1-17, all references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~Decibel (dB) means the unit for the measurement of sound pressure based upon a reference pressure of twenty (20) micropascals (zero decibels), i.e., the average threshold of hearing for a person with very good hearing.~~

9. *Density* needs to be expanded to include non-residential applications. The new definition shall read as follows:

Density means the number of dwelling units per acre of land, or, in the case of non-residential applications, it is the gross floor area per acre of land.

10. Page 14 – Sec. 1-17, all references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~Extraneous sound means a sound of high intensity and relatively short duration which is neither part of the neighborhood residual sound, nor comes from the sound source under investigation.~~

11. Page 15 – Sec. 1-17, all references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~Frequency means the time rate of repetition of sound waves in cycles per second, reported as Hertz (Hz), also referred to as "pitch."~~

12. Page 17 – Sec. 1-17, *High rise apartment development* should read as follows:

High-rise apartment development means a building or buildings with a minimum of three stories containing multifamily dwelling units and developed in accordance with the provisions of ~~to~~ this Chapter.

All references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~*Impulsive sound* means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one (1) second characterized with an abrupt onset and rapid decay.~~

~~*INCE* means Institute of Noise Control Engineering.~~

13. Page 21 Sec. 1-17– the definition for “*Lot width*” has a typo and should read:

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.

Additionally, references to DeKalb County need to be updated to refer to the City of Dunwoody. To that end, “*Major thoroughfare*” should be revised to read as follows:

Major thoroughfare means a street, road or highway shown as a major thoroughfare in the ~~DeKalb County~~ City of Dunwoody Transportation and Thoroughfare Plan.

14. Page 23 – Sec. 1-17, all references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~*Muffler* means a sound-dissipative device or system for lessening the sound of the exhaust of an internal combustion machine where such a device is part of the normal configuration of the equipment.~~

~~*Neighborhood residual sound level* means that measured value that represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds, and those from the source under investigation. Neighborhood residual sound level is synonymous with background sound level. Neighborhood residual sounds are differentiated from extraneous sounds by the fact that the former are not of a relatively short duration, although they are not necessarily continuous.~~

15. Page 24 - Sec. 1-17, all references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~*Noise control officer* means a City employee or agent who has received noise enforcement training and is currently certified in noise enforcement.~~

~~*Noise sensitive facility* means any facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include but are not limited to schools, hospitals, and places of worship.~~

16. Page 26 – Sec. 1-17, all references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties.~~

17. Page 29 – Sec. 1-17, the Secretary position of all City Boards falls under the responsibility of the Community Development Director, not the City Manager.

Secretary means the ~~City Manager~~ Community Development Director or his/her designee who shall serve as secretary to the Community Council, planning commission and as secretary to the zoning board of appeals.

18. Page 30 – Sec. 1-17, all references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~Sound level meter means an instrument that conforms to ANSI S1.4-1983 or its successors.~~

19. Page 31 – Sec. 1-17, all references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~Steady tonal quality means sound emissions comprised of a single frequency or a narrow cluster of frequencies, which may be referred to as a whine, hum or buzz, with measured sound levels not fluctuating by more than plus or minus three (3) dB(A).~~

20. Page 33 – Sec. 1-17, all references to the Noise Ordinance and its associated definitions are to be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~Total sound level means that measured level which represents the summation of the sounds from the sound source under investigation and the neighborhood residual sounds which affect a given place at a given time, exclusive of extraneous sound sources.~~

21. Page 34 – Sec. 1-17, the authority to grant approvals for walls and their materials falls under the responsibility of the Community Development Director or designee, not the City Manager.

Wall means a solid retaining or security barrier constructed of materials including brick, stone, concrete, concrete block, ceramic tile or other aggregate materials and other such materials as may be approved by the ~~City Manager~~ Community Development Director or his/her designee.

22. Page 37 – Sec. 1-24: maps are maintained in the office of the Community Development Director, not the office of the City Manager.

“The boundaries of the various land use districts are shown upon the maps that constitute the land use element of the comprehensive plan and are made a part of this Chapter and

shall be maintained by the ~~City Manager~~ Community Development Director or his/her designee at the direction of the City Council.

23. Page 44 – Sec. 2A-12 (and every other instance throughout the document, i.e. 2B-12, 2C-12, 2D-12, etc.): all occurrences of “**Noise Limitations**” will be removed from the Zoning Ordinance. Noise ordinances and laws are the purview of the Police Department and they have their own codes to address noise violations:

~~**Sec. 2A-12. Noise Limitations.**~~

~~All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.~~

24. Page 67 – Sec. 2G-7 the first sentence shall read R-A8, not RA-8:

“Where a lot in the ~~RA-8~~ R-A8 (Single-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than twenty (20) feet in width shall be provided and maintained in a natural state...”

25. Page 84 – Sec. 2K-7:

“Spacing between multiple buildings within an RM-150 district is subject to the requirements of ~~Section 27-788~~ Section 4-55.”

26. Page 93 – Sec. 2M-5(b)(1):

(1) Utility structure necessary for the transmission or distribution of service (~~Section 4-35~~) (Section 4-38).

27. Page 99 – Section 2N-5 “Special Permits” (and all other similar sections):

(a) *Special administrative permit from* ~~director of public works~~ community development director or his/ her designee(s).

28. Page 126 – Section 2S-16 “director of planning” should read “director of community development and/or his/her assigns”.

“The ~~director of planning~~ community development director or his/her designee(s). of shall, after final approval of any development plan for NCD,...”

Also, “Clerk of Superior Court of City of Dunwoody” should read “Clerk of Superior Court of DeKalb County”, because plats are recorded at the county level, not with the city.

“...record said final plat with the Clerk of Superior Court of ~~City of Dunwoody~~ DeKalb County.”

29. Page 138 – Section 2V-5: “Section 47-47” should read “Section 4-47”.

“1. Telecommunications tower and antenna, subject to requirements of **Section ~~47-47~~ 4-47**.”

30. Page 158 – Section 2Y-11: “Section 4-20” should read “Section 4-21”.

“See **Section ~~4-20~~ 4-21**, Landscaping requirements for parking lots.”

31. Page 164 – Section 2Z-9(a): Add the missing reference to “see section 4-2”.

“(a) *Adult entertainment establishments and adult service facilities*: One (1) parking space for each seventy-five (75) square feet of floor area in the building. (See **Section 4-2, Adult entertainment establishments**).”

32. Page 176 – Section 2BB-5(a)(1): “Section -47” should read “Section 4-47”.

“(1) Telecommunications tower or antenna, subject to requirements of **Section ~~4-47~~**.”

33. Page 190 – Section 2CC-14(b)(2): should not read “Section 2-X”, it should instead read “Neighborhood Shopping District”. Section 2X in this document could change in the future, and possibly no longer refer to the NS district.

“(2) Commercial and office uses authorized in **Section ~~2-X~~ the NS** (Neighborhood Shopping) District.”

34. Page 204 – Section 3C-3: “Chapter 1 of the Code of Ordinances” should instead read “Chapter 27 of the Code of Ordinances”, and thereby incorporate it into the Zoning Ordinance.

“...to this Chapter which amendment shall be incorporated herein and made a part of this **Chapter ~~1~~ 27 of the Code of Ordinance**.”

35. Page 226 – Section 4-16(a): “director of planning” should read “community development director”.

“Art shows, carnival rides and similar events of community interest may be approved by the ~~Director of Planning~~ Community Development Director or his/her designee by special administrative permit...”

36. Page 235 – Section 4-30: The “Noise ordinance” in its entirety will be deleted. From this point forward noise violations will be the responsibility of the Police department.

37. Page 247 – Section 4-39(e): “relative residence permit” should be approved by the Community Development Director and not the Public Works Director.

“...Permits for the second kitchen facility shall not be issued until such time as the real property owner has applied to and received from the ~~director of public works~~ community development director or his/her designee a relative residence permit.”

38. Page 254 – Section 4-48, Temporary Buildings: Replace text that references the Director of Planning with the title Community Development Director.

“Such time period may be extended upon approval by the ~~Director of Planning~~ Community Development Director or his/her designee. Such temporary buildings shall be sited and permitted in any district upon approval of the ~~Director of Planning~~ Community Development Director or his/her designee.”

Section 4-49: “Temporary Outdoor Sales of Merchandise” should be approved by the Community Development Director and not the Public Works Director.

“Temporary outdoor sales of merchandise, including flea markets, may be authorized upon approval of a special administrative permit by the ~~director of public works~~ community development director in the C-1, C-2 and M districts...”

39. Page 270 – add Section **5A-4, Community Council Established; Membership; Terms**. This new section is created to fill in the section currently reserved, and will allow for the establishment and practice of the Community Council. The text shall read as follows:

- (a) There is hereby established a City of Dunwoody Community Council consisting of seven (7) members, whose qualifications and guidelines shall be dictated by Chapter 2 (“Administration”) of the City of Dunwoody Code of Ordinances. If a provision of Chapter 2 of the City Code is in conflict with any portion of the City of Dunwoody Zoning Ordinance as it pertains to the Planning Commission, Chapter 2 of the City Code shall control.
- (b) “Following the monthly closing date for the introduction or filing of an application to amend the official zoning maps, the text of this chapter, or the comprehensive plan land use maps, a copy of all such proposed amendments shall be made available by the community development director or the director's designee to the Dunwoody community council for consideration. Applicants are encouraged to be present at the community council meetings to present their applications. Community council may consider such ordinances and applications in relation to the applicable standards and criteria contained in this chapter, and may communicate their recommendation in a timely fashion to the secretary of the planning commission prior to said commission's public hearing on said ordinance or application. The failure of any community council to timely comply with the provisions of this subsection shall not constitute grounds for deferral or denial of any proposed amendment either by the planning commission or the mayor & city council.”

40. Page 287 – Section 5D-1 and others: all references the “Board of Zoning Appeals”, will be switched to “Zoning Board of Appeals” for the sake of consistency throughout the document.
41. All references in the document to either the **Planning Director** and/or the **Director of Planning** will be changed to Community Development Director.