

## **MEMORANDUM**

**To:** Mayor and City Council

**From:** Richard McLeod, Community Development Director

**Date:** July 23, 2018

**Subject:** Amendment to City of Dunwoody Ordinances  
Chapter 2, Sec. 2-88 – Additional guidelines of the planning commission

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### **ITEM DESCRIPTION**

Request to consider text amendment to the municipal code regarding the planning commission (Chapter 2). The proposed changes serve to limit the planning commission to one (1) deferral of an application to the next regularly scheduled meeting.

### **DISCUSSION**

Chapter 2 of the Dunwoody Municipal Code empowers the planning commission to hold public hearings to “**review** and **make recommendations**” for action by the mayor and city council” on applications for rezonings, special land use permits, and amendments to the text of the city zoning ordinance. Per Sec. 2-88(f):

*(f) At the close of each public hearing, the chair of the planning commission shall call the members to order for consideration and a vote on the issue currently before them. The vote of the planning commission shall be nonbinding and shall be made in the form of a recommendation to the mayor and city council from the following list:*

- (1) Approval as recommended by staff with recommended conditions;*
- (2) Approval as recommended by staff with revised conditions as presented by the planning commission;*
- (3) Denial.*

The planning commission is entitled to table (defer) an item for a specified period of time for the purpose of receiving additional information necessary to make a recommendation. Yet, there are no restrictions as to how long this deferral may be, nor how many deferrals may be applied to an application. This omission has created scenarios where applications have been deferred repeatedly as the planning commission requests succeeding revisions before making a recommendation.

The proposed amendment would limit the planning commission to deferring any one item no more than once, to the next regularly scheduled meeting. This change would serve to accelerate the amendment, rezoning, and special land use processes by ensuring that applications are referred to the Mayor and City Council expeditiously, while easing the burden on citizens, developers, and staff.

**NOTE:** Per Sec. 27-311(b) of the Dunwoody Municipal Code, the mayor and city council reserves the right to “refer matters back to a review body (i.e. the Planning Commission) for further deliberations or to obtain additional information” with no restrictions.

Additionally, the portion of the code allowing applicants to request a deferral for up to 90-days remains unchanged in this amendment.

### **RECOMMENDATION**

Staff recommends Mayor and City Council approve the attached draft changes to Chapter 2, Sec. 2-88 – Additional guidelines of the planning commission, as prepared.

#### Attachments:

Chapter 2, Sec. 2-88 – Additional guidelines of the planning commission, with edits.

**STATE OF GEORGIA****CITY OF DUNWOODY****ORDINANCE NO. 2018-****AN ORDINANCE TO AMEND CHAPTER 2 (ADMINISTRATION) TO AMEND ARTICLE IV (CITY BOARDS AND COMMISSIONS) TO AMEND THE PROCEDURES RELATING TO TABELING APPLICATIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

**WHEREAS**, the Mayor and City Council of the City of Dunwoody are empowered to create guidelines which regulate the procedures of the Planning Commission; and

**WHEREAS**, the City of Dunwoody's code does not currently provide specific guidance as to the amount of time an item may be tabled; and

**WHEREAS**, the Mayor and Council of the City of Dunwoody wish to amend the code to limit such time an item may be tabled so that items may only be tabled once to the next planning commission meeting.

**THEREFORE**, THE MAYOR AND COUNCIL OF THE CITY OF DUNWOODY, GEORGIA HEREBY ORDAIN:

**SECTION I:** Subsection 2-88of Chapter 2 relating to Administration is hereby amended to read as follows:

***Sec. 2-88. - Additional guidelines of the planning commission.***

- (a) Any vacancy in the membership shall be filled in the same manner as the original appointment.
- (b) The planning commission may receive reimbursement for customary expenses incurred in conjunction with any authorized activity of the planning commission.
- (c) The planning commission shall meet monthly in accordance with an established schedule of meetings as prepared by the city department of community development.
- (d) It shall be the function and duty of the planning commission to review and make recommendations for action by the mayor and city council on the following:
  - (1) All applications for annexation, rezoning, master plans, concurrent ordinances and/or variances;
  - (2) Applications for use permits and modifications to same;

- (3) Amendments to the text of the city zoning ordinance, city subdivision regulations, the city comprehensive plan, the future land use map, and the zoning map;
- (4) Perform other functions of the planning commission as may be required by federal and state law.

Nothing contained herein shall prevent the mayor and city council from hereafter assigning other duties to the planning commission.

(e) Any application that is to be considered by the planning commission must be submitted to the department of community development in accordance with the established filing schedule as prepared by said department or as stated in the city zoning ordinance.

(f) At the close of each public hearing, the chair of the planning commission shall call the members to order for consideration and a vote on the issue currently before them. The vote of the planning commission shall be nonbinding and shall be made in the form of a recommendation to the mayor and city council from the following list:

- (1) Approval as recommended by staff with recommended conditions;
- (2) Approval as recommended by staff with revised conditions as presented by the planning commission;
- (3) Denial.

(g) The planning commission may move to table an item ~~once to the next regularly scheduled meeting for a specified period of time~~ in order to receive additional information necessary to make a recommendation to the mayor and city council. ~~Should the planning commission fail to make a recommendation at the second meeting the item shall be forwarded to the council without a recommendation.~~ Should a request to table an item be made by the applicant and/or the property owner, the planning commission shall consider the request and, if granted, shall not table said request longer than for a period of 90 days. The 90-day period shall begin on the same day the action is made by the planning commission. If the table item is not returned within the prescribed period, the item shall then be automatically withdrawn and shall be required to follow the prescribed and established procedure to re-file applications before the planning commission.

(Comp. Ords. 2008, ch. 2, art. 4, § 8)

## SECTION 2:

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any section, paragraph, sentence, clause or phrase of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgement or decree of any court or competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionally or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance and that, to the greatest extent allowed by law, all remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

**SECTION 3:** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 4:** This Ordinance shall be codified in accordance with State law and the Code of the City of Dunwoody, Georgia. This Ordinance shall become effective upon adoption.

SO ORDAINED, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Approved by:

Approved as to form:

\_\_\_\_\_  
Denis L. Shortal, Mayor

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Cecil G. McLendon, City Attorney

Attest:

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Sharon Lowery, City Clerk

SEAL