

Agenda Item

OK

File ID: 2019-3557

Substitute

Agenda Date

Public Hearing: YES NO

Department: Planning and Sustainability

KH
2/23/19

SUBJECT:

Commission District(s): ALL

Application by the Director of the Planning and Sustainability for a text amendment to the Zoning Ordinance, Chapter 27, Table 4.1 and Article 4.2.23 Drive-through facilities to allow a drive-through facility, for a use other than a restaurant, to be allowed in the C-1 (Local Commercial) and C-2 (Commercial) districts located in Activity Centers.

Petition No.: TA-19-1243216

Proposed Use: Drive-through facility

Location: All of DeKalb County

Parcel No.: N/A

Information Contact: Marian Eisenberg

Phone Number: 404-371-4922

PURPOSE:

Application by the Director of Planning and Sustainability for a text amendment to the Zoning Ordinance, Chapter 27, Table 4.1 and Article 4.2.23 Drive-through facilities to allow a drive through facility, for a use other than a restaurant, to be allowed in Commercial districts. This amendment is to allow, with a Special Land Use Permit (SLUP), drive throughs for banks, dry cleaners, drugstores, and other non-restaurant businesses that are currently prohibited in a commercial district if located in an Activity Center designation. Pursuant to the PECS meeting held July 9, 2019, staff removed the use permit exceptions for restaurant drive-throughs.

RECOMMENDATION:

COMMUNITY COUNCIL: COMMUNITY COUNCIL: (April 2019) CC-1 APPROVAL; CC-2 APPROVAL; CC-3 APPROVAL; CC-4 APPROVAL; CC-5 APPROVAL.

PLANNING COMMISSION: (7/9/2019) - APPROVAL; (5/7/2019) - APPROVAL

STAFF RECOMMENDATION: (July 2019) APPROVAL; (May 2019) APPROVAL

PLANNING STAFF ANALYSIS: The current code allows, with a Special Land Use Permit (SLUP), drive throughs only in the mixed-use districts, if located within an activity center. This text amendment seeks to allow property zoned commercially to permit drive throughs with a SLUP. The SLUP will allow the Board to evaluate the layout of the drive through, speaker and windows, as well access to the site. This is for non-restaurant drive throughs and added a prohibition for all drive-through facilities within 500 feet of an elementary, middle, or high school only. Planning & Sustainability recommends "Approval of this text amendment".

PLANNING COMMISSION VOTE: (7/9/2019) Approval 5-1-0. P. Womack, Jr. moved to approve, V. Moore seconded for approval per Staff recommendation. J. West opposed. **(5/7/2019) Approval 6-2-1.** P. Womack, Jr. moved, V. Moore seconded for adoption of the text amendment per Staff recommendation, as presented with amendments. J. Johnson and J. West opposed; A. Atkins abstained.

COMMUNITY COUNCIL VOTE/RECOMMENDATION: (June 2019): CC-1 Approval, 5-0-0; CC-2 Approval, 5-0-1; CC-3 Approval with Conditions, 10-0-0; CC-4 Approval, 9-2-0; CC-5 Approval, 6-0-1. Community Council District 4 would like specific criteria to be developed for drive-through facilities. They are concerned about the health effects of exhaust from idling cars in drive-through lanes and safety hazards if a drive-through facility is located within a commercial center and drivers must cross traffic to enter a drive-through lane. **(April 2019) CC-1 No Quorum 1-0-0; CC-2 Full Cycle Deferral 6-0-0; CC-3 Approval 12-0-0; CC-4 Full Cycle Deferral 9-4-0; CC-5 Approval 9-0-0.** Community Council-4 voted that the text amendment should be modified so that certain types of drive-through facilities such as drive-through funeral homes would be prohibited. Additionally, there were concerns that the requirement that drive-through facilities be at least 60 feet away from residential was not stringent enough, and that the distance requirement needed to be increased. Council also suggested that the drive-through supplemental regulations include a requirement that the drive-through use was non-transferrable. Additionally, the standard regarding lighting needed to be strengthened to better protect adjacent properties.

AN ORDINANCE

**AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY,
AS REVISED 1988, CHAPTER 27, ARTICLE 4, PERTAINING TO
THE REGULATION OF DRIVE-THROUGH FACILITIES,
AND FOR OTHER PURPOSES.**

WHEREAS, the DeKalb County Board of Commissioners is vested with authority to regulate land use through the adoption of planning and zoning ordinances which reasonably relate to the public health, safety, morality and general welfare of the County and its citizens; and

WHEREAS, the DeKalb County Board of Commissioners has determined that certain land uses, including but not limited to drive-through facilities, require the imposition of additional regulations to mitigate negative impacts on the public health, safety, welfare as well as environmental, aesthetic, and infrastructure impacts; and

WHEREAS, existing land use regulations do not permit drive-through facilities (other than restaurants) in Activity Center character areas located in either C-1 (Local Commercial) or C-2 (Commercial) districts; and

WHEREAS, the DeKalb County Board of Commissioners seeks to apply the same standard for drive-through facilities as it does to drive-through restaurants in the above-identified areas; and

WHEREAS, the DeKalb County Board of Commissioners therefore desires to amend the Use Table (Table 4.1), by replacing it with the Use Table attached hereto as Exhibit 1, and Section 4.2.23 relating to drive-through facilities, to permit with a Special Land Use Permit drive-through facilities associated with non-restaurant uses, such as banks or dry cleaners, in Activity Center character areas located in C-1 (Local Commercial) and C-2 (Commercial) districts.

NOW, THEREFORE, BE IT ORDAINED by the Governing Authority of DeKalb County, Georgia, and it is hereby ordained by the authority of the same, that Chapter 27, Article 4 of the Code of DeKalb County, as Revised 1988, is hereby amended as follows:

PART I: ENACTMENT

By amending Sections 4.1.3 (Table 4.1), by replacing it with the Use Table attached hereto as Exhibit 1, and 4.2.23 of Chapter 27 of the Code of DeKalb County, as Revised 1988, to read as follows:

* * *

Sec. 4.1.3. - Use Table.

* * *

Note to codifier: please insert the Use Table attached hereto as Exhibit 1.

* * *

Sec. 4.2.23. - Drive-through facilities.

All drive-through facilities must comply with the following:

- A. Drive-through facilities shall not be located within sixty (60) feet of a residentially zoned property, as measured from any menu or speaker box to the property line of the residential property, unless part of a mixed-use development.
- B. No drive-through facility shall be located on a property less than ten thousand (10,000) square feet in area, unless part of a mixed-use development. Stacking spaces for queuing of cars shall be provided for the drive-through area as required in Article 6 of this chapter.
- C. Drive-through lanes and service windows serving drive-through lanes shall only be located to the side or rear of buildings.
- D. Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building and with a similar level of architectural quality and detailing.
- E. Speaker boxes shall be pointed away from any adjacent residential properties and shall require masonry sound attenuation walls with landscaping or other speaker volume mitigation measures. Speaker boxes shall not play music but shall only be used for communication for placing orders.
- F. All lighting from drive-through facilities shall be shaded and screened so as to be directed away from any adjacent residential property.
- G. Stacking spaces shall be provided for any use having a drive-through facility or areas having drop-off and pick-up areas in accordance with the following requirements. Stacking spaces shall be a minimum of ten (10) feet wide and twenty-five (25) feet long. Stacking spaces shall begin at the last service window for the drive-through lane (typically the “pick-up” window).
- H. All drive-through facilities with the exception of drive-through restaurants shall provide at least three stacking spaces for each window or drive-through service facility.

- I. The following standards shall apply to all stacking spaces and drive-through facilities:
 1. Drive-through lanes shall not impede on and off-site traffic movements, shall not cross or pass through off-street parking areas, and shall not create unsafe conditions where crossed by pedestrian access to a public entrance of a building.
 2. Drive-through lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked, or otherwise distinctly delineated.
 3. All drive-through facilities shall include a bypass lane with a minimum width of ten (10) feet, by which traffic may navigate around the drive-through facility without traveling in the drive-through lane. The bypass lane may share space with a parking access aisle.
 4. Drive-through lanes must be set back five (5) feet from all lot lines and roadway right-of-way lines.
 5. Owner and operator are responsible for daily litter clean-up to ensure the property remains free of trash, litter, and debris.
 6. Drive-through restaurants shall not be located within five hundred (500) feet of an elementary, middle, or high school.
 7. Drive-through facilities located in activity centers require a special land use permit.
 8. Distance shall be measured along the right-of-way, along the route of travel, from entrance to entrance.

* * *

PART II. EFFECTIVE DATE

This ordinance shall become effective upon adoption by the Board of Commissioners and approval by the Chief Executive Officer.

PART III. SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole, nor any part thereof, other than the part so declared to be invalid or unconstitutional.

PART IV. REPEAL OF CONFLICTING ORDINANCES

This ordinance amends the zoning ordinance of DeKalb County, and all other conflicting ordinances or resolutions are hereby repealed, provided that nothing herein shall be construed as repealing the conditions of use, operation, or site development accompanying permits lawfully issued under previous ordinances or resolutions, and provided further that modification or repeal of those past conditions of approval may be accomplished as authorized and provided by the requirements of this zoning ordinance.

ADOPTED by the DeKalb County Board of Commissioners, this _____ day of _____, 2019.

JEFF RADER
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this ____ day of _____, 2019.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

BARBARA NORWOOD-SANDERS, CCC
Clerk to the Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

ANDREW BAKER
Planning & Sustainability Director

APPROVED AS TO FORM:

VIVIANE H. ERNSTES
County Attorney

Use	KEY: P – Permitted use Pa – Permitted as an accessory use																SA – Special administrative permit from director of planning SP – Special land use permit from BoC (SLUP)				See Section 4.2										
	RE	RLG	R-100	R-85	R-75	R-60	RSM	MR-1	MR-2	HR-1,2,3	MHP	RNC	OI	OIT	NS	C-1	C-2	OD	M	M-2		MU-1	MU-2	MU-3	MU-4,5						
COMMERCIAL (cont'd)																															
Office (cont'd)																															
General business office								Pa	Pa	Pa			P	P	P	P	P	P				P	P	P	P						
Insurance office								Pa	Pa	Pa			P	P	P	P	P	P				P	P	P	P						
Legal office								Pa	Pa	Pa			P	P	P	P	P	P				P	P	P	P						
Medical office								Pa	Pa	Pa			P	P	P	P	P	P				P	P	P	P						
Real estate office								Pa	Pa	Pa			P	P	P	P	P	P				P	P	P	P						
Recreation and Entertainment																															
Adult entertainment establishments																						P	P			✓					
Adult service facility																						P	P	P		✓					
Drive-in theater																						P	P	P		✓					
Fairground or amusement park																						P	P	P		✓					
Indoor recreation (bowling alleys, movie theatres & other activities conducted wholly indoors)															P	P	P	P	P	P	P	P	P	P	P						
Nightclub or late night establishment											Pa				SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	✓					
Outdoor recreation (miniature golf, batting cages, tennis, Go-cart & other outdoor activities)		SP																	P	P	SP				✓						
Special events facility		SP											P	P		P	P	P	P			P	P	P	P						
Theaters with live performance, assembly or concert halls, or similar entertainment within enclosed building													P	P		P	P							P	P						
Retail																															
Alcohol outlet -package store, primary																						SP	SP	P	P	SP	SP	SP	SP	✓	
Alcohol outlet -beer and/or wine store, beer growler, primary															SP	SP	SP	P	P			SP	SP	SP	SP	✓					
Alcohol outlet - beer and wine, accessory to retail less than 12,000 sf (see also 4.1.3 (F))															SP	SP	SP	P	P			SP	SP	SP	SP	✓					
Apparel or accessories store													P	P	P							P	P	P	P						
Art gallery								Pa	Pa	Pa			P	P	P	P						P	P	P	P						
Book, greeting card, or stationery store													P	P	P	P						P	P	P	P						
Camera or photography													P	P	P	P						P	P	P	P						
Commercial greenhouse or plant nursery													P	P	P							P				✓					
Computer or computer software store													P	P	P	P						P	P	P	P						
Convenience store (see alcohol outlet or fuel pumps accessory)													P	P	P	P	P	P				P	P	P	P	✓					
Drive-through facilities (other than restaurants) in Activity Center character areas																						SP	SP			SP	SP	SP	SP	✓	
Drive-through facilities (other than restaurants) in all other character areas (exception 4.2.28(7))																						SP	SP			SP				✓	
Farm or garden supply store		P																				P	P								
Farmer's market, permanent													P	P	P	P	P	P				P	P	P	P	✓					
Farmer's market, temporary/seasonal	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	✓	
Florist													Pa		P	P	P	P				P	P	P	P						
Specialty food stores (e.g., coffee, ice cream) (see alcohol outlet)													Pa		P	P	P	P				P	P	P	P						
Fuel dealers, manufacturers or wholesalers																						P	P								
Fuel pumps																						SP	SP	SP	SP	✓					
Fuel pumps in character areas other than activity centers and as allowed in 4.2.28																						P	P	P		✓					
Fuel pumps in activity centers																						SP	SP	SP	SP	SP	SP	SP	SP	SP	✓

Use	KEY: P – Permitted use Pa – Permitted as an accessory use														SA – Special administrative permit from director of planning SP – Special land use permit from BoC (SLUP)				See Section 4.2							
	RE	RLG	R-100	R-85	R-75	R-60	RSM	MIR-1	MR-2	HR-1,2,3	MHP	RNC	OI	OIT	NS	C-1	C-2	OD		M	M-2	MU-1	MU-2	MU-3	MU-4,5	
Fuel pumps, accessory to large scale retail w/in 1000 feet of interstate highway interchange measured from RW to property line																Pa	Pa	Pa	Pa							✓
Gift, novelty, or souvenir store													Pa		P	P	P	P				P	P	P	P	
Gold buying, precious metals																Pa	P	P								
Grocery stores (see alcohol outlet)								Pa	Pa	Pa					P	P	P	P				P	P	P	P	
Hardware store or other building materials store															P	P	P	P	P	P		P	P	P	P	
Hobby, toy or game store															P	P	P	P				P	P	P	P	
Jewelry store															P	P	P	P				P	P	P	P	
Music or music equipment store (retail)															P	P	P	P				P	P	P	P	
Liquor store (see alcohol outlet)													Pa		SP	SP	SP	P	P							✓
News dealer or news store													P	P	P	P	P	P	P	P		P	P	P	P	
Office supplies & equipment store															P	P	P	P	P	P		P	P	P	P	

Use	KEY: P – Permitted use Pa – Permitted as an accessory use														SA – Special administrative permit from director of planning SP – Special land use permit from BoC (SLUP)				See Section 4.2								
	RE	RLG	R-100	R-85	R-75	R-60	RSM	MR-1	MR-2	HR-1,2,3	MHP	RNC	OI	OIT	NS	C-1	C-2	OD		M	M-2	MU-1	MU-2	MU-3	MU-4,5		
Distillation of bones or glue manufacture																					P						
INDUSTRIAL (cont'd)																											
Dry cleaning plant																					P	P					
Dye works																						P					
Explosive manufacture or storage																						SP					
Fabricated metal manufacture																						P					
Fat rendering or fertilizer manufacture																						SP					
Fuel dealers, manufactures or wholesalers																					P	P					
General aviation airport																					SP	SP					✓
Heavy equipment repair service or trade																	P				P	P					
Ice manufacturing plant																					P	P					
Incidental retail sales of goods produced or processed on the premises																					Pa	Pa					
Incineration of garbage or refuse when conducted within an enclosed plant																						SP					
Industrial, heavy																						SP					
Industrial, light																					P	P					
Intermodal freight terminal, bus or rail freight or passenger terminal, or truck terminal																						SP					
Leather manufacturing or processing																						P					
Light malt beverage manufacturer (See also Brewpub)																Pa	Pa	Pa			P	P	Pa	Pa	Pa	Pa	
Light manufacturing																					P	P					
Manufacturing, heavy																						SP					✓
Manufacturing operations not housed within a building																						SP					✓
Mines or mining operations, quarries, asphalt plants, gravel pits or soil pits																						SP	SP				✓
Outdoor storage, industrial																						P	P				✓
Paper or pulp manufacture																						SP					✓
Petroleum or inflammable liquids production, refining																						SP					✓
Radioactive materials: utilization, manufacture, processing or emission																						SP					✓
Railroad car classification yards or team truck yards																						SP	SP				✓
Recovered materials facility wholly within a building																						P	P				✓
Recovered materials processing wholly within a building																						P	P				✓
Recycling collection																Pa		Pa	Pa	Pa		SP	SP				✓
Recycling plant																						SP	SP				✓
Repair/manufacture of clocks, watches, toys, electrical appliances, electronic, light sheet metal products, equipment, machine tools, or machinery not requiring the use of press punch over 100 tons rated capacity or drop hammer																						P	P				
Research, experimental or testing laboratories																						P	P				
Rubber or plastics manufacture																						P	P				
Salvage yard (Junkyard)																						SP	SP				✓
Solid waste: general disposal, landfill, private industry disposal, handling facility, thermal treatment technology or hazardous/toxic materials including radioactive materials																							SP				✓
Smelting: copper, iron, zinc, or ore																							SP				

