



**DeKalb County Department of Planning & Sustainability**

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**Board of Commissioners Hearing Date:**

**November 18, 2021**

**TEXT AMENDMENT ANALYSIS**

**AGENDA NO.:** N5

**ZONING CASE NO.:** TA-21-1244986

**COMMISSION DISTRICTS:** All Districts

**APPLICANT:** Director of Planning & Sustainability

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**SECTIONS OF ZONING ORDINANCE AFFECTED BY AMENDMENTS:** SECTION 27-7.4.6 (SPECIAL LAND USE PERMIT; CRITERIA TO BE CONSIDERED)

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**REASON FOR REQUEST:**

The *Zoning Ordinance* currently prescribes nineteen (19) criteria to be considered by the planning department, planning commission, and board of commissioners regarding review of Special Land Use Permits (SLUPs). While understanding the need for thorough consideration of these applications because of their potential adverse impacts on the community, the number of prescribed criteria is excessive, redundant, and inefficient. The goal of this proposed text amendment is to reduce the number of criteria from 19 to 13 and retain a desired wide range of community considerations.

The SLUP criteria are designed to illuminate adverse impacts related to certain land uses that may be acceptable, generally, but due to the nature of the use may produce adverse impacts on the surrounding community. The required public participation process fosters community discussion and determines if such impacts can be mitigated, tolerated, or whether they are simply too harmful to the community to permit.

On its face, the current criteria appear to reflect the desire to enumerate a general list of land use factors. It is the opinion of Staff that a number of criteria could be consolidated and/or eliminated while simultaneously not detracting from the intent of special land use permit consideration.

Many jurisdictions within metropolitan Atlanta (and beyond) evaluate conditional use permits, special land use permits, or special exceptions similarly to DeKalb County, however, with fewer criteria. The table below contains a cursory review of metropolitan jurisdictions:

<b>Jurisdiction</b>	<b>Application Type</b>	<b>Number of Criteria</b>
DeKalb County	Special Land Use Permit	19
Cobb County	Special Land Use Permit	15
City of Atlanta	Special Land Use Permit	7
Gwinnett County	Special Land Use Permit	6
City of Decatur	Conditional Use Permit	6

DeKalb County has the most criteria among the listed jurisdictions. Although each jurisdiction has its own rationale for evaluation, it is common for such applications to be evaluated upon fewer than ten (10) criteria.

Additionally, if one considers other land use related decisions, they also include fewer criteria than SLUPs. Zoning changes (i.e., rezonings) are evaluated based on eight (8) criteria. The Zoning Board of Appeals, a quasi-judicial body, reviews variances from the *Zoning Ordinance* based on evaluation of five (5) criteria. While it is impossible to account for every possible circumstance, many land use decisions are derived regularly with fewer criteria and little to no redundancy.

Upon cursory review, the SLUP criteria are duplicative and redundant. For example, Criterion A, which requires consideration of the size of the site to the degree that compliance with "all other applicable requirements" may be achieved. This is later followed by Criterion L which assesses whether required transitional buffers are provided. A number of other criteria hints at varying degrees of similar impacts (e.g. transportation/traffic, operation/land use, compatibility/consistency, etc.).

The text amendment proposes the following consolidations:

1. Eliminate Criteria "L" regarding transitional buffer compliance and consolidate with Criteria "A" relating to adequacy of the site.
2. Eliminate Criteria "G" regarding adverse impacts on adjacent properties and consolidate with Criteria "B" relating to compatibility with adjacent and surrounding properties.
3. Eliminate Criteria "D" regarding adequacy of the public street on which the use is proposed and consolidate with Criteria "C" relating to adequacy of public services and facilities.
4. Eliminate Criteria "E" regarding regarding whether existing land uses along access routes to the site will be adversely affected by volume of traffic of proposed use. This issue should be sufficiently addressed by Criteria "B" which deals with compatibility of use with adjacent and surrounding properties.
5. Eliminate Criteria "I" regarding whether proposed use will create adverse impacts upon adjoining land uses by reason of manner of operation and consolidate with Criteria H which relates to adverse impacts by hours of operation.
6. Eliminate Criteria "R" regarding creating a negative shadow impact on adjoining lots with Criteria "O" which relates to appropriateness of size, scale, and massing of proposed buildings with the size, scale, and massing of adjoining buildings.

It is important to ensure that any public review process is fair, efficient, and somewhat predictable for all involved. As stated earlier, on its face, nineteen criteria are beyond the norm for this type of application. However, each SLUP application requires thorough evaluation or consideration of all factors in play in addition to those not captured by the existing list; the complexity of which is proportional to the complexity of the proposal. The large number of criteria can be cumbersome to review if there are a large number of items for consideration on the agenda. Additionally, consolidation of some criteria may produce more targeted responses, which should aid the evaluation process.

In conclusion, the proposal does not change the SLUP process. It does not alter opportunities for public participation, nor does it limit the range of topics that are open to consideration during the public participation process. Moreover, the text amendment does not change the purpose of SLUPs as a zoning tool. This text amendment does seek to reduce the number of criteria, reduce duplication, and improve administrative efficiency. To ensure that this proposal has adequate consideration, Staff would respectfully request consideration by the Planning, Economic Development, and Community Services (PECS) Committee and a full-cycle deferral.

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**RECOMMENDATION: Full-cycle deferral**