

Public Hearing: YES NO

Department: Planning & Sustainability

SUBJECT:

COMMISSION DISTRICT(S): 3, 5, 6 & 7

Application of the Director of Planning & Sustainability for text amendments to the Zoning Ordinance, Chapter 27, including, but not limited to Section 27- 3.33 (I-20 Corridor Compatible Use Overlay District), Section 27-3.33.5. Principal uses and structures, and Section 27-3.33.6. Prohibited uses of the DeKalb County Zoning Ordinance, relating to temporary produce stands. This text amendment affects Commission Districts 3 and 5 and Super Districts 6 and 7.

PETITION NO: N8. TA-21-1244999 (2021-2645)

PROPOSED USE: Temporary Produce Stands in the I-20 Overlay District

LOCATION: I-20 Corridor Compatible Use Overlay District

PARCEL NO. : N/A

INFO. CONTACT: Jeremy McNeil, Sr. Planner

PHONE NUMBER: 404-371-4977

PURPOSE:

Application of the Director of Planning & Sustainability for text amendments to the Zoning Ordinance, Chapter 27, including, but not limited to Section 27- 3.33 (I-20 Corridor Compatible Use Overlay District), Section 27-3.33.5. Principal uses and structures, and Section 27-3.33.6. Prohibited uses of the DeKalb County Zoning Ordinance, relating to temporary produce stands. This text amendment affects Commission Districts 3 and 5 and Super Districts 6 and 7.

RECOMMENDATION:

COMMUNITY COUNCIL: CC-3: Approval with a condition; CC-5: Approval.

PLANNING COMMISSION: 3-Cycle Deferral.

PLANNING STAFF: Approval.

STAFF ANALYSIS: The Department has received constant inquiries regarding the use of temporary produce stands on properties throughout unincorporated DeKalb County. Some of those properties were located within the I-20 Corridor Compatible Use Overlay District. Currently, the I-20 Overlay District does not include “temporary produce stands” as a permitted use. The intent of this proposed text amendment is to amend the I-20 Overlay District by adding “temporary produce stand,” subject to administrative approval similar to temporary uses outside of the overlay district. This proposal received a favorable review by the Board of Commissioners’ Planning, Economic Development, and Community Service (PECS) Committee on June 21, 2021. Therefore, staff recommends “Approval”.

PLANNING COMMISSION VOTE: Three-Cycle Deferral 8-0-0. Vivian Moore moved, Jana Johnson seconded for a 3-cycle deferral to the January 2022 zoning cycle to address uniformity, clarification of conditions, and safety concerns that include what types of produce is allowed, quality of produce, location, etc. Motion passed unanimously.

COMMUNITY COUNCIL VOTE/RECOMMENDATION: CC-3: Approval w/condition 11-0-0. Board members thought that temporary produce stands would help ameliorate problems of food desserts and recommended that Staff add a definition of “produce stands”. **CC-5: Approval 7-1-0.**



DeKalb County Department of Planning & Sustainability

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Michael Thurmond
Chief Executive Officer

Planning Commission Hearing Date: Tuesday, July 8, 2021

Board of Commissioners Hearing Date: Thursday, July 29, 2021

TEXT AMENDMENT ANALYSIS

AGENDA NO.: N8

ZONING CASE NO.: TA-21-1244999

COMMISSION DISTRICTS:

Districts 3 & 5

Super Districts 6 & 7

APPLICANT: Department of Planning & Sustainability

SECTIONS OF ZONING ORDINANCE AFFECTED BY AMENDMENTS: Section 27- 3.33 (I-20 Corridor Compatible Use Overlay District)

REASON FOR REQUEST:

The Department has received constant inquiries regarding the use of temporary produce stands on properties throughout unincorporated DeKalb County. Some of those properties were located within the I-20 Corridor Compatible Use Overlay District.

Currently, the I-20 Overlay District does not include “temporary produce stands” as a permitted use. The intent of this proposed text amendment is to amend the I-20 Overlay District by adding “temporary produce stand,” subject to administrative approval similar to temporary uses outside of the overlay district. This proposal received a favorable review by the Board of Commissioners’ Planning, Economic Development, and Community Service (PECS) Committee on June 21, 2021.

At its July 8, 2021 meeting, the Planning Commission recommended a 5-6-month deferral (3 cycles) for consideration of the following: year-round permitting, daily setup/breakdown, code enforcement, safety concerns, sanitary concerns, and uniformity of produce stand design. A number of the issues are or have been addressed in some capacity. The PECS Committee, at its June 21st meeting, recommended a limitation on the duration of temporary produce stands to March to October and to consider mechanisms for conversion of vacant shopping centers to farmers’ markets. The latter will be address as a separate item in the future. Also, many of the safety, sanitation, and enforcement concerns are already addressed by Section 4.3.1 of the *Zoning Ordinance*. Given the narrow scope of this proposal, we intend to treat produce stands within the overlay similarly to the ones outside of the overlay. Additionally, regarding produce stand design, while we understand the desire for well-designed, attractive displays, we are also cognizant of the associated costs, which some vendors may not be able to afford. Finally, we are aware that there are vendors seeking to begin operation during this summer season. Thus, timing is of the essence, if we are to accommodate community members this year. Staff recommends approval of the text amendment.

Attachments:

- 1. Revised Sections of the Zoning Ordinance**

AN ORDINANCE TO AMEND CHAPTER 27 OF
THE CODE OF DEKALB COUNTY, GEORGIA,
AND FOR OTHER PURPOSES.

WHEREAS, the Board of Commissioners is authorized to exercise zoning powers to protect and promote the County's health, safety, and general welfare;

WHEREAS, produce stands can provide nutritious food products in areas of the County where fresh produce would otherwise not be readily available;

WHEREAS, the County desires to reduce the occurrence of food deserts by encouraging the availability of produce stands at appropriate locations in the I-20 Overlay District.

NOW THEREFORE, BE IT ORDAINED by the Governing Authority of DeKalb County, Georgia, and be it hereby ordained by the Authority of same, that Chapter 27 of the Code of DeKalb County, as revised in 2015, is hereby amended as follows:

PART I. ENACTMENT

By amending the Section 27-3.33.8. to add temporary produce stand as a permitted use, as follows:

Section 27-3.33.8. - Special permits.

A. Special administrative permit from the Director of Planning and development Sustainability as referenced in section 4.2.21, commercial recreation and entertainment:

1. Art shows, carnival rides, festivals and special events of community interest.
2. Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site.
3. Telecommunications antennas that are incorporated in architectural features such as steeples, clock towers, water towers and attached to the top of high-rise buildings subject to requirements of section 4.2.50.
4. Outdoor recreation/entertainment facilities.

~~B. Special land use permit from the board of commissioners:-~~

~~1. Heliport-~~

B. Special administrative permit from the Director of Planning and Sustainability, as referenced in Section 4.3, Temporary Use Regulations:

1. Temporary Produce Stand, as follows:

- a. A temporary produce stand shall be only allowed as an accessory use.
- b. A temporary produce stand can only operate between the months of March through October, per calendar year, subject to special administrative permit approval.

Approved _____

c. Temporary produce stands must comply with the general requirements of Sec. 4.3.1. (Temporary Outdoor Uses; general requirement). Where the requirements of the overlay district and the general requirements conflict, the overlay standards shall apply.

C. Special land use permit from the board of commissioners:

1. Heliport.

PART II. EFFECTIVE DATE

This ordinance shall become effective immediately on the date of 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. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

ADOPTED by the DeKalb County Board of Commissioners, this _____ day of _____, 2020.

STEVE BRADSHAW
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this _____ day of _____, 2020

Approved _____

ATTEST:

MICHAEL THURMOND
Chief Executive Officer
DeKalb County, Georgia

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

APPROVED AS TO FORM:

APPROVED AS TO SUBSTANCE:

VIVIANE H. ERNSTES
Chief Legal Officer
DeKalb County, Georgia

ANDREW A. BAKER
Planning Director
DeKalb County, Georgia

Sec. 4.3.1. Temporary outdoor uses: general requirements.

- A. Temporary outdoor uses shall not be held, unless the necessary special administrative permit is obtained from the planning department, subject to the provisions of article 7, and any other applicable agency which may require review prior to issuance of permits.
- B. Any applicant for a permit for temporary outdoor use shall have the written authorization of the owner of the property to use the property for the specific event for which the application was submitted.
- C. All applicants for a permit for temporary outdoor use shall obtain a business license, if applicable.
- D. All approvals, permits, or licenses granted under this division must be displayed in a conspicuous manner on the premises at all times for inspection by DeKalb County.
- E. No temporary outdoor use may be located within or encroach upon any drainage easement, public sidewalk or right-of-way, fire lanes, designated loading areas, driveways, maneuvering aisles, or ADA minimum four-foot sidewalk width within private sidewalks or other areas intended for pedestrian movement.
- F. Temporary signage is permitted subject to the size and height standards in accordance with chapter 21, signs.
- G. No operator, employee, or representative of the operator of a temporary outdoor use shall solicit directly from the motoring public.
- H. Any temporary outdoor uses which have not complied with this division shall be a violation of this section. Any person or entity found to be in violation of this section may be punished as provided for in article 7.
- I. No temporary outdoor use shall be conducted within any public right-of-way unless permitted by public entity.
- J. Merchandise shall only be displayed in a manner that does not obstruct pedestrian or vehicular circulation or flow of traffic.
- K. Merchandise shall only be displayed in an area not wider than fifty (50) percent of the total linear frontage of the building occupied by the merchant.
- L. The premises for a temporary outdoor use shall be restored to a sanitary condition, i.e., cleaned and cleared of all litter, trash and debris; and all equipment, materials, signs, temporary power poles, etc., associated with the temporary outdoor use shall be removed from the property within two (2) days of the last day specified for such use, except for yard sales. All unsold yard sale merchandise remaining at the conclusion of the sale must be removed immediately. Purchased yard sale merchandise must be removed within twenty-four (24) hours of conclusion of the sale.

(Ord. No. 15-06 , 8-25-2015)