

Public Hearing: YES NO

Department: Planning & Sustainability

SUBJECT:

COMMISSION DISTRICT(S): All Districts

Application of the Director of Planning and Sustainability for text amendments to the Zoning Ordinance, Chapter 27, to create Section 4.2.60 (Supplemental Regulations) to address Small Box Discount Retailers, to amend Section 9.1.3 (Defined Terms) to create definition for Small Box Discount Retailers, and for other purposes; and to amend Section 4.1.3 Use Table pertaining to Small Box Discount Retailers. This text amendment is County-wide.

PETITION NO: D5. TA-21-1244279 (2020-1543)

PROPOSED USE: N/A

LOCATION: County-wide.

PARCEL NO. : N/A

INFO. CONTACT: Brandon White, Current Planning Manager

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PURPOSE:

Application of the Director of Planning and Sustainability for text amendments to the Zoning Ordinance, Chapter 27, to create Section 4.2.60 (Supplemental Regulations) to address Small Box Discount Retailers, to amend Section 9.1.3 (Defined Terms) to create definition for Small Box Discount Retailers, and for other purposes; and to amend Section 4.1.3 Use Table pertaining to Small Box Discount Retailers. This text amendment is County-wide.

RECOMMENDATION:

COMMUNITY COUNCIL: (June 2022) CC-1: No Quorum; CC-2: Approval; CC-3: Approval; CC-4: Approval; CC-5: Approval. (April 2022) CC-1: Approval; CC-2: Approval; CC-3: Approval w/conditions; CC-4: Full Cycle Deferral; CC-5: Approval w/conditions. (February 2022) CC-1: No Action Taken; CC-2: Full Cycle Deferral; CC-3: Approval; Cycle Deferral; CC-4: Full Cycle Deferral; CC-5: Full Cycle Deferral. (October 2021) CC-1: No Quorum; CC-2: Deferral; CC-3: Deferral; CC-4: Deferral; CC-5: Deferral. (August) CC-1: No Quorum; CC-2: Deferral; CC-3: Deferral; CC-4: Deferral; CC-5: Deferral. (June 2021) CC-1: No action taken; CC-2: Deferral; CC-3: Deferral; CC-4: Deferral; CC-5: Deferral. (February 2021) CC-1: Approval; CC-2: No action taken; CC-3 Deferral; CC-4 Deferral; CC-5 Deferral. (December 2020) CC-1: Approval; CC-2: No action taken; CC-3: No action taken; CC-4: Deferral; CC-5: No action taken.

PLANNING COMMISSION: (July 12, 2022) Full Cycle Deferral. (May 3, 2022) Full Cycle Deferral. (March 1, 2022) Full Cycle Deferral. (November 4, 2021) Two-Cycle Deferral. (September 9, 2021) Two-Cycle Deferral. (July 8, 2021) Full Cycle Deferral. (March 2, 2021) Two-Cycle Deferral. (Jan. 7, 2021) Full-Cycle Deferral.

PLANNING STAFF: Deferral to the December 20, 2022 Board of Commissioners a.m. meeting.

STAFF ANALYSIS: See enclosed staff report for further details.

PLANNING COMMISSION VOTE: (July 12, 2022) Full Cycle Deferral 7-0-0. Jon West moved, Jana Johnson seconded for a full cycle deferral to the September 2022 zoning agenda. (May 3, 2022) Full Cycle Deferral 7-0-0. Gwendolyn McCoy moved, Edward Patton seconded for a Full Cycle Deferral to the July 2022 zoning agenda, per Staff recommendation. (March 1, 2022) Full Cycle Deferral 7-0-1. Vivian Moore moved,

Jon West seconded for a full cycle deferral, per Staff recommendation to the May 2022 zoning agenda. Tess Snipes abstained; Jana Johnson was not present for this vote. **(November 4, 2021) Two-Cycle Deferral 8-0-0.** Jon West moved, Gwendolyn McCoy seconded for a 2-cycle deferral to the March 2022 zoning agenda. **(September 9, 2021): Two-Cycle Deferral 8-0-0.** Jana Johnson moved, Jon West seconded for a Two-Cycle Deferral to the January 2022 zoning cycle. Edward Patton was not present for this vote. (July 8, 2021) Full Cycle Deferral 6-0-0. Jon West moved, Edward Patton seconded for a Full Cycle Deferral, per Staff recommendation. Jana Johnson was not present for this vote. (March 2, 2021) Two-Cycle Deferral 9-0-0. J. Johnson moved, J. West seconded for a two-cycle deferral to the July 2021 zoning agenda with the condition that the small discount box store study from Georgia State University be sent to all Community Council, Planning Commission and Board of Commission members and made available to the public once it has been received. (Jan. 7, 2021) Full-Cycle Deferral 8-0-0. P. Womack, Jr. moved, J. West seconded for a full-cycle deferral to the March 2021 zoning agenda.

COMMUNITY COUNCIL VOTE/RECOMMENDATION: (June 2022) CC-1: No Quorum. CC-1 Board members in attendance recommended approval with the amendment that the separation distance be increased between small box discount retailers (SBDR) to one mile, applicable to both freestanding SBDRs as well as SBDRs in shopping centers; **(CC-2) Approval 6-0-0; CC-3: Approval 7-0-0.** CC-3 Board members made the following comments: 1) Clarify the definition - What is the standard for “price lower than...” and, 2) Increase distance separation to one (1) mile; **CC-4: Approval 11-0-0; CC-5: Approval 9-0-0.** CC-5 Board members voted for approval with the following conditions: Under "Item B3", it is recommended that a high-quality surveillance equipment be used that meets or exceeds what is needed by the DeKalb County Police to clearly identify suspects to bring charges; and, 2) under "Item B4" that there be a 6-foot tall solid wooden or opaque fencing to screen the dumpster area from the public view. **(April 2022) CC-1: Approval 7-0-0.** The board made the following comments: 1) Define “price lower than...”; and what is the standard for this? 2) Refine the definition. 3) Extend distance separation to one (1) mile. **CC-2: Approval 9-0-1; CC-3: Approval w/conditions 7-3-0.** Approval w/ a condition that the separation distance between small box retailers & other uses identified in the text amendment shall be one mile. Comments included: Small box retailers provide affordable shopping opportunities for some members of the communities such as younger shoppers but tend to be detrimental to the overall image of the community, tend to be poorly organized and secured, and therefore should be located at least one mile from each other and from the land uses identified in the text amendment. However, they thought that the proposed regulations would improve the appearance and operation of small box retailers. **CC-4: Full Cycle Deferral 10-0-0.** Full cycle deferral to allow time to fully review the proposed amendments; **CC-5: Approval w/conditions 6-0-2.** Approved w/removal of NS-Neighborhood Shopping from permitted zoning districts, and prohibition of LED ribbon lights, flashing lights, neon lights. **(February 2022) CC-1: No Action Taken** based on Staff’s recommendation for FCD. However, the following points/questions were noted: 1) Should GSU Andrew Young Policy school weigh in on this instead of the criminal justice staff; 2) Small box establishments may need to be evaluated in context with check cashing establishments and other places that are prevalent near them; 3) A distance requirement may need to be considered; 4) Regulations may need to vary depending on context specific factors; and, 5) Zoning may not be appropriate remedy for public safety issues related to small box establishments. **CC-2: Full Cycle Deferral 10-0-0; CC-3: Approval 9-0-0.** The Council supports regulation of small box discount retailers even if such regulation cannot address all of the issues identified in the GA State study. **CC-4: Full Cycle Deferral 10-0-0** to allow sufficient time to read the consultant's report in detail so that a more informed recommendation could be made; **CC-5: Full Cycle Deferral 10-0-0.** **(October 2021) CC-1: No Quorum;** members present voted for Full Cycle Deferral 2-0-0; **CC-2 Full Cycle Deferral 7-0-0; CC-3 Full Cycle Deferral 8-0-0; CC-4 Full Cycle Deferral 10-0-0; CC-5 Full Cycle Deferral 8-0-0.** **(August 2021) CC-1 No Quorum;** Members present voted for Deferral 2-0-0; **CC-2: Deferral 7-0-0; CC-3: Deferral 8-0-0; CC-4: Deferral 11-0-0; C-5: Deferral 8-0-0.** **(July 2021) CC-1: No quorum, no action taken; CC-2 Deferral 9-0-1; CC-3: Deferral 11-0-0; CC-4: Deferral 12-0-0; CC-5: Deferral 8-0-0.** **(February 2021) CC-1: Approval 2-0-0** of proposed time-table; **CC-2: No action taken; CC-3: Deferral 8-0-0** with the understanding that the moratorium will be extended and the text amendment will be placed on the May BOC agenda; **CC-4: Deferral 11-0-0** to allow more community input; **CC-5: Deferral 9-0-0.** **(December 2020) CC-1: Approval 5-0-0; CC-2: No action taken**

but feedback was provided to Staff; **CC-3:** No action taken; **CC-4:** Deferral 12-0-1; **CC-5:** No action taken but feedback was provided to Staff.



DeKalb County Department of Planning & Sustainability

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**Planning Commission Hearing Date: November 1, 2022
Board of Commissioners Hearing Date: November 17, 2022**

TEXT AMENDMENT ANALYSIS

AGENDA NO.: D5 **ZONING CASE NO.:** TA-21-1244279 **COMMISSION DISTRICTS:**
Countywide

APPLICANT: Department of Planning & Sustainability

SECTIONS OF ZONING ORDINANCE AFFECTED BY AMENDMENTS: CHAPTER 27, SECTION 4.2.60 (SUPPLEMENTAL REGULATIONS) TO ADD REGULATIONS TO ADDRESS SMALL-BOX DISCOUNT RETAIL STORES; SECTION 9.1.3 (DEFINED TERMS) TO CREATE A DEFINITION FOR SMALL-BOX DISCOUNT RETAIL STORE; TO AMEND SECTION 4.1.3 (USE TABLE) PERTAINING TO SMALL-BOX DISCOUNT RETAIL STORES; AND TO AMEND SECTION 4.2.28 (FUEL PUMPS ASSOCIATED WITH LARGE RETAIL, CONVENIENCE STORES, GAS STATIONS, SERVICE STATIONS) TO ESTABLISH DISTANCE SEPARATION STANDARDS BETWEEN SMALL-BOX DISCOUNT RETAIL STORES AND CONVENIENCE STORES.

REASON FOR REQUEST:

The moratorium passed by the DeKalb County Board of Commissioners in December 2019 and subsequently extended in January 2020, October 2020, January 2021, April 2021, August 2021, October 2021, January 2022, May 2022, July 2022, and September 2022 temporarily prohibits the establishment of any new, small box discount stores in the unincorporated areas of DeKalb County. The initial moratorium—and subsequent extensions—initiated the process of studying the effects of small box discount retail stores on the health, safety, and welfare of County residents and businesses. Staff contracted with Analytic Trial Consultants, LLC to perform the requisite study. The report, along with supplemental documents, have been made available to the Board of Commissioners, Planning Commission, the five community councils, and the public via the Planning & Sustainability webpage.

Based on the report’s findings, staff has begun addressing aspects that are suitable for inclusion into the *Zoning Ordinance*. The proposal introduces an official land use term, “small-box discount retail store” along with a definition as provided in the original moratorium resolution. Similar to other retail uses, this use is proposed as a permissible use in all mixed-use districts and commercial zoning districts (NS, C-1, C-2, and OD), excluding office and industrial districts (OI, OIT, M, M-2), subject to supplemental regulations.

The third part of the text amendment proposal consists of supplemental regulations that will comprise a new section, Section 4.2.60. Because these stores are typically found in distinct environments: shopping centers and standalone buildings, the proposal includes supplemental regulations based on these distinctions. One subsection shall apply to all small-box discount retail stores, another subsection shall apply to standalone stores, and the last subsection shall apply to stores within shopping centers and multi-tenant buildings.

Planning and Legal Staff are in the process of completing an updated draft of the text amendment proposal. Moreover, the Legal Department has been conducting individual meetings with each commissioner to ascertain any outstanding concerns and to address lingering legal concerns. Planning Staff recommends a deferral to the December 20, 2022 Board of Commissioners meeting for adoption.
