

DEKALB COUNTY

ITEM NO.

BOARD OF COMMISSIONERS

HEARING TYPE
PUBLIC HEARING

BUSINESS AGENDA / MINUTES

ACTION TYPE
ORDINANCE

MEETING DATE: SEPTEMBER 27, 2005

SUBJECT: Construction Requirements for Residential Infill Development.

DEPARTMENT: Development Department and Planning Department

PUBLIC HEARING: YES

ATTACHMENT: YES, 7 pages, Draft (6)

INFORMATION CONTACT: Wayne Jones
Development Director
PHONE NUMBER (404) 371-2169

PURPOSE:

To amend Chapter 27 of the Code of DeKalb County to provide a new definition of the maximum allowable height for an infill residential structure and to provide the Zoning Board of Appeals with the power to grant variances from this height definition.

NEED/IMPACT:

These code amendments, commonly referred to as Draft (6), revise the definition of building height for infill buildings and will provide quality of life measures that can be enforced for the benefit of mature neighborhoods where infill lot development occurs. These measures will also tell developers and builders what the County's expects from construction on infill lots.

This version of the ordinance would apply countywide and decreases the maximum allowable height for residential structures that are built on infill lots. At the request of various members of the Infill Task Force, this version of the ordinance is to be placed in the Zoning Code and provides the Zoning Board of Appeals with the power to grant variances from the infill building height definition. Because the ZBA does not currently have the power to grant variances that increase the height of a building, the companion home rule amendment, commonly referred to as Draft (7), should be considered simultaneously with this ordinance.

Because this ordinance amends the zoning ordinance of the County, it will require a full cycle deferral for the planning commission to consider the ordinance and for appropriate notice and advertisement in accordance with law. While this ordinance is scheduled for a public hearing today, it has not be through the planning commission process and has not previously been advertised as a zoning ordinance so that the public hearing held today would not satisfy the zoning procedures law requirements for enactment.

RECOMMENDATION: Full cycle deferral.

AN ORDINANCE

**AN ORDINANCE TO AMEND THE CODE OF
DEKALB COUNTY, GEORGIA, CHAPTER 27,
REGARDING REQUIREMENTS FOR
INFILL LOTS WITHIN UNINCORPORATED
DEKALB COUNTY, AND FOR OTHER PURPOSES.**

WHEREAS, the Governing Authority of DeKalb County is tasked with the protection of the County's public health, safety, and general welfare; and

WHEREAS, the County's public health, safety, and general welfare require the harmonious, orderly, and progressive development of land within DeKalb County; and

WHEREAS, the DeKalb County Infill Task Force composed of interested citizens and development community professionals has met and deliberated regarding infill development with a view to making policy recommendations to the governing authority; and

WHEREAS, the DeKalb County Board of Commissioners has considered the recommendations of the DeKalb County Infill Task Force; and

WHEREAS, the DeKalb County Board of Commissioners has determined that these amendments are needed to ensure that there are quality of life mechanisms in place to preserve mature and stable neighborhoods where neighborhoods are desirous of such preservation.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 27 of the Code of DeKalb County, Section 27-31 shall be amended; Sections 27-796.1, 27-796.2, 27-796.3, 27-796.4 and 27-796.5 are added; and Section 27-915 is amended to read as follows:

PART I. ENACTMENT

By amending section 27-31 to add the following definitions in alphabetical order to read as follows:

Sec. 27-31. Definitions for infill development regulations.

...

“Demolition” of an infill building shall mean the destruction and removal of an existing building or structure in whole or in part whether such destruction and removal involves removal of all or part of the prior foundation.

“Infill building” means any building built or proposed to be built on an infill lot.

“Infill building height” means the vertical distance from the top of the first floor slab to the top of the highest roof beam of the proposed structure.

“Infill lot” means a conforming lot of record or a nonconforming lot of record in a residential zoning district created by the demolition of an existing residential structure and replacement of that structure with new construction.

“New construction” on an infill lot means the replacement of an existing residential building or structure with a new building, structure or an addition that increases the usable space in the building, structure or addition by at least fifty percent (50%).

By adding new sections 27-796.1, 27-796.2, 27-796.3, 27-796.4 and 27-796.5, to read as follows:

Sec. 27-796.1. Statement of purpose and intent.

The purpose and intent of the board of commissioners is to provide for the establishment of height restrictions for infill lots for the following reasons:

- (a) To allow for the implementation of policies and objectives of the County’s comprehensive plan and the zoning ordinance; and
- (b) To avail neighborhoods of an opportunity to ensure that new and remodeled single-family dwellings and related accessory uses and

structures are compatible with the height, size, and level of forestation of the existing dwellings and lots; and

- (c) To encourage property owners to improve and renovate existing housing stock rather than demolish the same; and
- (d) To establish and maintain a balance between preserving the character of mature neighborhoods while accommodating compatible new residential development; and
- (e) To allow neighborhoods an opportunity to establish architectural standards that will preserve the character of their existing neighborhoods.

Sec. 27-796.2. Requirements for construction on infill lots.

- (a) A permit application for a development permit on an infill lot shall include a site plan. The site plan shall include the measurements for infill building height and for the main floor front door threshold elevation for the existing residential structure and the proposed structure. The site plan shall delineate the proposed grading for the entire site, the storm water control measures proposed to protect adjacent properties, erosion control, water quality measures, and include a tree survey and a tree protection plan.
- (b) An applicant shall also indicate on the site plan the location of the following construction-related items:
 - (1) Dumpsters or other onsite disposal equipment;
 - (2) Portable toilets;
 - (3) Onsite parking for construction vehicles;
 - (4) Construction material staging and storage; and
 - (5) Borrow or stockpile areas.
- (c) Construction activity on, and deliveries to, infill lots shall be limited to:

Monday-Friday	7:00 AM to 7:00 PM.
Saturday	8:00 AM to 5:00 PM.

There shall be no construction activity or deliveries on Sundays, New Year's Day, Thanksgiving Day, Christmas Day, Memorial Day, July 4th or Labor Day unless such activity arises from an emergency which puts the site or neighboring property owners and their property at risk of harm or loss.

- (d) The owner of the real property shall be responsible for posting a sign, in a location visible from the street frontage that shows the time during which construction and deliveries are authorized. Such sign shall be posted seven (7) days in advance of the commencement of any construction or delivery to the site.
- (e) Dumpsters or any onsite waste disposal equipment may not be located on the street. If adequate traffic controls can be implemented, the development director or designee may approve the placement of dumpsters and onsite waste disposal equipment on a street so long as the street has a paved width greater than twenty-four (24) feet.
- (f) Portable toilets shall be located off of the right-of-way and at least fifteen (15) feet from any side property line.
- (g) Wherever possible, temporary parking shall be provided onsite and not on the street.
- (h) The distance between a retaining wall and the property line shall be equal to at least half of the distance between the property line and the required setback line. Newly constructed retaining walls shall not be higher than four (4) feet; however, existing retaining walls may be repaired and replaced so long as the height or the repaired or replaced wall does not increase in height over the original height of the wall.
- (i) The proposed front door threshold elevation for infill buildings on infill lots shall not be more than two (2) feet greater than the front door elevation of the residential structure that existed on the lot prior to demolition.
- (j) Driveways for front entry garages on infill lots with setbacks less than thirty (30) feet shall not be more than eighteen (18) feet wide in the right of way. All other driveways shall be a maximum of twelve (12) feet wide. Except where necessary to accommodate the requisite turn radius at the transition to the street, the distance between the property lines in the side yard and the driveway shall be equal to at least half the width of the required side yard.

- (k) In addition to the requirements set forth in section 14-39 of the Code of DeKalb County, the trees located on the front half of the front yard and the rear half of the rear yard of an infill lot shall be preserved unless it can be demonstrated to the development director or designee that no reasonable alternatives to removal exist in order to accommodate utilities, drainage measures, water quality improvements, and driveways.
- (l) Existing drainage patterns located along property lines shall not be adversely affected by construction of an infill building or any associated site work.
- (m) The applicant for construction on an infill lot shall be responsible for ensuring that all existing sewer services and taps from the building(s) to the street shall be inspected and verified to be in proper condition prior to connection.
- (n) The owner of real property shall be responsible for ensuring that a copy of any demolition permit secured in connection with infill lot development is posted on the property, in a location visible from the street frontage, within seven (7) days of the date of issuance, and at least seven days (7) prior to the commencement of demolition.
- (o) If an applicant seeks to have a lot of record subdivided in accordance with the requirements of chapter 14 of this Code, the approved subdivided lot(s) shall not be considered infill lots and shall not be subject to the height and construction infill requirements set forth in sections 27-796.1 through 27-796.5

Sec. 27-796.3. Variance from application of infill building height restriction.

Variations from any applicable height restriction that arises from the application of the definition of infill building height set forth in this chapter shall be heard by the zoning board of appeals in accordance with the process and requirements set forth in chapter 27 of this code.

Sec. 27-796.4. Demolition permits.

- (a) A demolition site plan shall be submitted as part of the permit application package. The demolition site plan shall depict structures and impervious surfaces to be removed, location and size of all trees greater than eight (8) inches DBH, construction exits, tree fencing, best managements practices for erosion control, elevation of the existing front door threshold and the top of the lowest footer.

- (b) Only dead, diseased, or hazardous trees, as determined by a certified arborist, may be removed pursuant to a demolition permit.
- (c) No demolition permit for property within any residential district shall be issued unless the applicant for a demolition permit has submitted a site plan that shows the infill building height of the proposed structure measured in the manner specified in this Code.

Sec. 27-796.5. Administrative variance regarding height for infill development.

The height of a structure on an infill lot may exceed thirty-five (35) feet if the applicant for a building permit establishes to the satisfaction of the development director or designee that the highest peak of the residential structure on both lots immediately adjacent to the infill lot exceed thirty-five feet. All other variances regarding height must be sought from the zoning board of appeals.

By amending section 27-915(b) to read as follows:

Sec. 27-915. Power and duty of the board to hear applications for variances; limitations of authority of board.

...

- (b) Allow an increase in maximum height of the building except the board shall have the power to grant variances to increase the infill building height for an infill building.

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. 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 _____, 2005.

BURRELL ELLIS
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this ____ day of _____, 2005.

VERNON JONES
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

MICHAEL J. BELL
Ex-Officio Clerk
Board of Commissioners and
Chief Executive Officer

DEKALB COUNTY

ITEM NO.

BOARD OF COMMISSIONERS

BUSINESS AGENDA / MINUTES

MEETING DATE: SEPTEMBER 27, 2005

HEARING TYPE

PUBLIC HEARING

ACTION TYPE

ORDINANCE

SUBJECT: Home Rule Amendment to allow the Zoning Board of Appeals to grant variances to allow increase in the maximum height allowed for infill buildings.

DEPARTMENT: Development Department and Planning Department

PUBLIC HEARING: YES

ATTACHMENT: YES 5 pages, Draft (7)

INFORMATION CONTACT: Wayne Jones Development Director

PHONE NUMBER (404) 371-2169

PURPOSE:

To amend local law to provide the Zoning Board of Appeals with the power to grant variances from the maximum building height allowed for infill buildings.

NEED/IMPACT:

This code amendment, commonly referred to as Draft (7), is a companion piece to Draft (6) that has just been considered and provides the Zoning Board of Appeals with the power to grant variances from the infill building height definition. Because the ZBA does not currently have the power to grant variances that increase the height of a building, this companion home rule amendment, Draft (7), should be considered simultaneously with Draft (6).

Because Draft (6) requires a full cycle deferral, staff would suggest that this item also be deferred full cycle. If this ordinance is ultimately to be enacted by the Board, the development and planning director will ensure that it is appropriately posted and advertised in compliance with the legal requirements for home rule amendments.

It should be noted that adoption of this home rule amendment will require two consecutive adoptions at regularly scheduled commission meetings.

RECOMMENDATION: Full cycle deferral.

A HOME RULE ORDINANCE

A HOME RULE ORDINANCE BY THE BOARD OF COMMISSIONERS OF DEKALB COUNTY UNDER THE HOME RULE PROVISIONS FOR COUNTIES OF THE CONSTITUTION OF THE STATE OF GEORGIA, TO AMEND AN ACT OF THE GENERAL ASSEMBLY OF 1956, APPROVED MARCH 9, 1956, FOUND IN GEORGIA LAWS 1956, PAGE 3332, *ET SEQ.*, AS AMENDED, AUTHORIZING THE CREATION OF A DEKALB COUNTY ZONING BOARD OF APPEALS AND ESTABLISHING ITS POWERS AND DUTIES.

BE IT ORDAINED by the Board of Commissioners of DeKalb County, Georgia, and it is ordained by the authority of same, pursuant to the Home Rule Provisions for Counties of the Constitution of the State of Georgia, that the Act, known as 1956 Ga. Laws 1956, p. 3332, *et seq.*, as amended, pertaining to the DeKalb County Zoning Board of Appeals, which grants the county zoning board of appeals certain powers within the unincorporated portion of the county, be and the same is hereby further amended as follows:

PART I.

By amending Section 11 of 1956 Ga. Laws, p. 3332, et seq., as amended (codified as Section 1130 (g) (3) b. in Appendix B of the Code of DeKalb County in its entirety and substituting in lieu thereof the following:

Sec. 1130 (g) (3). Board of Appeals.

...

- b. Allow an increase in maximum height of the building except the board shall have the power to grant variances to increase the infill building height for an infill building.

PART II.

All laws or parts of laws in conflict with this Ordinance are hereby repealed.

PART VI.

A synopsis of this Ordinance shall be published in the official organ of DeKalb County once a week for three weeks, preferably on the _____ day of _____, 200__, the _____ day of _____, 200__, and on the _____ day of _____, 200__, and a copy of this Ordinance shall be filed with the Clerk of the Superior Court of DeKalb County for the purpose of examination and inspection of the public, along with sufficient copies of the same for distribution to those members of the public who desire the same.

PART VII.

The provisions of this Ordinance are effective upon the filing with the Georgia Secretary of State, a copy of this Ordinance, together with a copy of the required notice of publication and an affidavit of a duly authorized representative of the newspaper in which said notice was published to the effect that said notice has been published.

ADOPTED by the Board of Commissioners of DeKalb County, Georgia, on _____, 200__, and again on _____, 200__.

BURRELL ELLIS
Presiding Officer
Board of Commissioners
DeKalb County, Georgia