

DEKALB COUNTY

ITEM NO.

BOARD OF COMMISSIONERS

ZONING AGENDA / MINUTES

MEETING DATE: December 15, 2005

ACTION TYPE
ORDINANCE

HEARING TYPE
PUBLIC HEARING

SUBJECT: Text Amendment – Private Street Ordinance

COMMISSION DISTRICTS:

DEPARTMENT: Planning

PUBLIC HEARING: YES NO

ATTACHMENT: YES No

INFORMATION CONTACT: Patrick Ejike/Kevin Hunter

PAGES: 6

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Deferred from 2/22/05, 4/26/05, 6/28/05, 8/23/05, 9/27/05, & 11/21/05 for a public hearing.

PURPOSE:
TA-04-05

An ordinance to amend the Code of DeKalb County, Chapter 27, Articles I, II and III, pertaining to the adoption of the regulations regarding Private Streets and the standards for the same, and for other purposes.

REASON FOR REQUEST:

The Governing Authority of DeKalb County adopted a Zoning Ordinance amending Chapter 27 of the Code of DeKalb County providing for regulations of land use and zoning related activity in DeKalb County and for other purposes at its regular meeting of April 13, 1999. It is the Governing Authority of DeKalb County that wishes to amend the ordinances defining private streets and their associated standards and the Governing Authority recognizes that regulations governing private streets are not found in the Zoning Ordinance; and that the Zoning Ordinance does not establish other options for streets and that there is public interest in amending the code requirements for private streets, their standards, associated definitions and for other purposes. This is a companion to the amendment that provides for the adoption of amendments to the subdivision regulations to allow for private streets and most of the regulations that now appear in that chapter of the code.

RECOMMENDATION(S):

PLANNING DEPARTMENT:

Approval. The proposed text amendment to provide for private streets in DeKalb County has been reviewed and revised by the Planning Department, with modifications as recommended by the Development Department, and approved as to form by the Law Department. The proposal would provide for regulations and options governing private streets, and their standards, which are currently not found in the DeKalb County Zoning Ordinance. The proposal would also provide for associated definitions and other purposes. Staff recommendation is "Approval".

PLANNING COMMISSION:

Denial.

COMMUNITY COUNCIL:

Denial.

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TEXT AMENDMENT ANALYSIS

AGENDA NO.

ZONING CASE NO. TA-04-05

MONTH: NOVEMBER 2005

APPLICANT: DeKalb County Board of Commissioners

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SECTIONS OF COUNTY CODE AFFECTED BY AMENDMENTS:

Code of DeKalb County, Chapter 27, Articles I, II and III, pertaining to the adoption of the regulations regarding Private Streets and the standards for the same, and for other purposes.

REASONS FOR REQUEST:

The Governing Authority of DeKalb County adopted a Zoning Ordinance amending Chapter 27 of the Code of DeKalb County providing for regulations of land use and zoning related activity in DeKalb County and for other purposes at its regular meeting of April 13, 1999. It is the Governing Authority of DeKalb County that wishes to amend the ordinances defining private streets and their associated standards and the Governing Authority recognizes that regulations governing private streets are not found in the Zoning Ordinance; and that the Zoning Ordinance does not establish other options for streets and that there is public interest in amending the code requirements for private streets, their standards, associated definitions and for other purposes. This is a companion to the amendment that provides for the adoption of amendments to the subdivision regulations to allow for private streets and most of the regulations that now appear in that chapter of the code.

RECOMMENDATIONS:

Planning Department:

As the Board Desires. The proposed text amendment to provide for private streets in DeKalb County has been reviewed and revised by the Planning Department, with modifications as recommended by the Development Department, and approved as to form by the Law Department. The proposal would provide for regulations and options governing private streets, and their standards, which are currently not found in the DeKalb County Zoning Ordinance. The proposal would also provide for associated definitions and other purposes. Staff recommendation is "**As the Board Desires**".

PLANNING COMMISSION:

Full cycle deferral.

COMMUNITY COUNCIL:

Other.

AN ORDINANCE

**AN ORDINANCE TO AMEND CHAPTER 27, ZONING
ORDINANCE OF DEKALB COUNTY, AS AMENDED, SO AS
TO PROVIDE FOR PRIVATE STREETS AND FOR OTHER
PURPOSES**

WHEREAS, the Board of Commissioners of DeKalb County, Georgia adopted a Zoning Ordinance amending Chapter 27 of the Code of DeKalb County providing for the regulation of land use and zoning related activity in DeKalb County, Georgia and for other purposes at its regular meeting of April 13, 1999; and

WHEREAS, the Board of Commissioners of DeKalb County, Georgia wants to ensure the availability of desirable, high-quality residential, commercial, institutional, industrial or office developments across the County; and

WHEREAS, the Board of Commissioners of DeKalb County, Georgia realizes that interest has been indicated in private streets; and

WHEREAS, certain desirable goals expressed in the County's Comprehensive Plan can be accomplished more effectively within a zoning and development framework that permits private streets and thereby relieves the county in perpetuity from costly road maintenance obligations; and

WHEREAS, pursuant to Section 27-719.8 of the Code of DeKalb County, private streets are already permitted in the Stoncrest Overlay District; and

WHEREAS, the tax paying citizens of DeKalb County should not be required to pay any maintenance costs arising from private streets; and

WHEREAS, the Board of Commissioners of DeKalb County, Georgia determined that the current Zoning Ordinance does not allow for private streets in any zoning districts other than within the Stonecrest Area Overlay District.

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 the Zoning Ordinance of DeKalb County, Georgia is hereby amended as follows:

PART I. Enactment

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

Lot, conforming. Conforming lot means a designated parcel, tract, or area of land which meets the lot area and lot width requirements of this chapter, which has the amount of frontage on a public or private street required by this chapter.

Lot of record, non-conforming. Nonconforming lot of record means a designated parcel, tract or area of land legally existing at the time of the enactment of this chapter or amendment of this chapter which does not meet the lot area, lot width, or public or private street frontage and access requirements of this chapter.

Lot, substandard. Substandard lot means a designated parcel, tract, or area of land created after the time of enactment of this chapter or amendment of this chapter which does not meet the lot area, lot width, or public or private street frontage and access requirements of this chapter. Such a lot is illegal except where created by governmental action in which case such lot shall have the status of a nonconforming lot of record.

Street, private means any street that provides vehicular or pedestrian access within a development which is not dedicated or intended to be dedicated to the county, and which is not maintained by the county.

* * *

By amending section 27-783 (a) to read as follows:

Sec. 27-783. Traffic improvements, street improvements, curb cuts, visibility requirements and private street construction standards.

- (a) Each building shall be located on a lot or parcel that abuts a public street or private street. Access to a public street or private street solely by means of a recorded access easement, may be permitted if approved by the zoning board of appeals.

* * *

By amending section 27-783 to add new subsections (f), (g), (h), (i), (j), (k) and (l) to read as follows:

* * *

- (f) Where this chapter measures minimum building setback lines and frontages, or imposes development standards in connection with, or with reference to public streets, such measurements or standards set forth in the district regulations, the supplemental regulations or elsewhere in this chapter shall apply similarly for property abutting a private street where such private street has been authorized by the zoning board of appeals as provided in the Code of DeKalb County.
- (g) Private streets within any zoning district shall not be used to satisfy the off-street parking requirements of this chapter. Private streets within any district shall be assigned names and locations. The names of these streets shall be shown on plans required for the issuance of building and development permits as provided in this chapter and the Code of the DeKalb County. The geographical information services department shall approve all private street names and thereby avoid conflicting names.
- (h) Lots may front on a public street or private street having a pavement width of not less than 26 feet, including curb and gutter. Each private street shall be provided with sidewalks of not less than five (5) feet in width and shall also have utility easements on each side of the pavement of not less than 15.5 feet.
- (i) Private streets shall not be eligible for participation in the county's traffic calming program as provided for in Chapter 17 of this Code.
- (j) Private streets shall not be eligible for participation in the county's residential sidewalk district program as provided for in Chapter 23 of this Code.
- (k) Developers and property owners' associations shall guarantee access to all private streets by emergency and law enforcement vehicles and shall ensure that private streets are constructed to allow access by all emergency vehicles and law enforcement vehicles.
- (l) The use of private streets may not result in an increase in permitted density above that which would otherwise be permitted by the applicable district regulations. Density calculations shall be made based on a public street system and the grant of a special exception allowing a private street shall be density neutral.

- (m) Private streets shall comply with requirements of public streets found in chapter 14 and all other applicable sections of the DeKalb County Code.

By amending section 27-793.6 to read as follows:

Sec. 27-793.6 Same-Minimum exterior requirements.

The building setback requirements from a public or private street, side yard and rear yard on lots that abut the exterior property line of a conservation subdivision shall not be less than the requirements of the underlying zoning district unless the property owner establishes an additional area of greenspace that is fifty (50) feet in width adjacent to and immediately abutting the exterior property boundary. Such fifty-foot greenspace shall be in addition to the required greenspace described in section 27-793.8.

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 ordinance or resolution, 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

September 20, 2005
Draft

**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
DeKalb County Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO FORM:

MELANIE F. WILSON
Senior Assistant County Attorney
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

SABRINA A. FREENEY
Planning Director
DeKalb County, Georgia