

ARTICLE XVII
AMENDMENTS

Section 1700. Zoning Resolution and Map Amendment Procedure.

- A. This Resolution, including the City of Dacula Zoning Maps, may be amended from time to time by the City Council of the City of Dacula, but no amendment including the approval of a Special Use Permit shall become effective unless it shall have been proposed by or shall have first been submitted to the Planning Commission for review and recommendation.
- B. If the Planning Commission fails to submit a report within ninety (90) days of its first meeting after it has received an amendment or Special Use Permit request complete in all respects, it shall be deemed to have given a recommendation of "no comment" on the proposed amendment or Special Use Permit. However, the Planning Commission and the applicant for an amendment or Special Use Permit may jointly agree to an extension of the ninety-day period.
- C. Before the Planning Commission or the City Council of the City of Dacula enacts an amendment or Special Use Permit, they shall each hold a public hearing thereon. At least fifteen, but not more than forty-five days prior to the date of such hearing, the City Council shall cause to be published within the official organ of the City, a notice of the hearing. The notice shall state the time, place and purpose of the hearing.
- D. If a proposed Special Use Permit or amendment is for the rezoning of property and involves a change in the zoning classification of ten (10), or fewer parcels of land, then:
 - 1. The notice, in addition to the requirements of Subsection C. above, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property or proposed Special Use;
 - 2. A sign containing the information outlined in Section D. 1. above, shall be placed in a conspicuous location on the property not less than fifteen (15) days prior to the date of the hearing; and
 - 3. The Applicant shall give notice of the proposed rezoning or Special Use Permit by regular mail to the property owner of record and to all abutting property owners of record as shown by Gwinnett County tax records. Such notice shall be mailed at least fifteen days prior to the Planning Commission public hearing and shall include a description of the application and the date, time and place of public hearings.

Notice deposited in the mail with adequate postage thereon and addressed to the last known address of the above-named property owners as shown on Gwinnett County tax records shall be deemed to be adequate compliance with the requirements of this Section.
- E. If a proposed amendment or Special Use Permit qualifies as a Development of Regional Impact per state guidelines, the City shall conduct the first public hearing within 45 days of the reviews completion.

Section 1701. Initiation of Amendments.

Applications for amendment of the text or maps of this Resolution or for a Special Use Permit may be initiated by Resolution of the City Council, or by motion of the Planning Commission, or by petition of any property owner addressed to the City Council. In the case of a petition for the rezoning of property or Special Use Permit, such petition shall be submitted by the owner of record of said property, the owner's agent or by a contract purchaser with the owner's written consent.

Any amendment or Special Use Permit request brought before the City Council by petition of any property owner, cannot be resubmitted by petition of a property owner, in less than six (6) months from the date of final action (either approval or denial) by the City of Dacula City Council, unless the petition was allowed to be withdrawn by the City of Dacula Council at the public hearing.

A. Initiation by motion of the City Council or by motion of the Planning Commission.

Once a map amendment or Special Use Permit is initiated by the City Council or by motion of the Planning Commission, no application for a clearing, grubbing, grading, septic tank, building, development or other similar permit, for the affected property shall be accepted until final action is taken by the City Council on the proposed map amendment. Provided, however, that if the City Council does not take final action on the proposed map amendment within six (6) months from the date of initiation, permit applications shall again be accepted and reviewed pursuant to existing zoning. And, further provided that such permit applications shall be accepted during the map amendment process if the proposed use is authorized under the same conditions in both the existing and proposed Zoning District.

B. Initiation by Petition of any Property Owner addressed to the City Council for a Zoning Map Amendment or Special Use Permit.

Such petition shall be submitted by the owner of record of said property, the owner's agent or by a contract purchaser with the owner's written consent. Such petition shall include, but not be limited to, the following:

1. Petition Application (on form provided by the City Administrator's Office of the City of Dacula).
2. Survey of Property to be considered.
3. Legal Description and address of property to be considered.
4. Petitioner's impact analysis and any additional information as required in Section 1703 below.
5. Letter of Intent from applicant.
6. State the intended use.
7. State the number of lots, residential units, density per acre, square footage if proposed for non-residential building, or square feet per acre of total buildings.

Section 1701. Initiation of Amendments. (Continued)

8. An application for an amendment to create or extend a Zoning District or Special Use Permit shall be accompanied by a sketch plan at scale and such other plans, elevations or additional information as the City Administrator and this Resolution may require, showing the proposed development and its impact on natural and built systems. Additional information may include without limitation traffic studies, utility studies, and drainage studies. At a minimum the following shall be submitted:
 - a. Residential.
 - 1) Show how the proposed property is to be subdivided including proposed streets.
 - 2) List how utilities are to be provided (e.g. water, sewer, septic tank, etc.).
 - 3) State minimum lot size and total number of lots proposed.
 - 4) State minimum house size proposed.
 - b. Non-residential or multifamily apartments.
 - 1) Show proposed layout of building locations with driveway and parking lots.
 - 2) Show proposed curb cuts or existing driveway/roadways.
 - 3) Show all required buffers and building setback lines.
 - 4) List how utilities are to be provided (e.g. water, sewer, well, septic tank, etc.).

C. Initiation by Petition of any Property Owner addressed to the City Council for an Amendment of the Text of this Resolution.

Such petition for the amendment of text shall be submitted by any property owner addressed to the City Council and shall include the following:

1. Petition application (on form provided by the City Administrator).
2. Proposed text to be added, amended, or changed.
3. Provide a letter of intent stating the reason and need for the change in text. Describe the benefit to the public health, safety, and welfare.

Section 1702. Standards Governing Exercise of the Zoning Power.

The City Council finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power:

- A. Whether a proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property.
- B. Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property.
- C. Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned.

Section 1702. Standards Governing Exercise of the Zoning Power. (Continued)

- D. Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- E. Whether the proposed rezoning is in conformity with the policy and intent of the Land Use Plan.
- F. Whether there is other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning.

Section 1703. Impact Analysis.

If a proposed amendment is for the rezoning of property or is for a Special Use Permit, then:

- A. The initiating party, if a party other than the City Council or Planning Commission, shall be required to file, with its application for amendment, a written, documented analysis of the impact of the proposed zoning with respect to each of the matters enumerated in Section 1702 above. Such a zoning proposal and analysis shall be a public record.
- B. The City Administrator shall, with respect to each such zoning proposal, investigate and make a recommendation with respect to each of the matters enumerated in Section 1702 above. The City Administrator shall make a report of the investigation and recommendations to the Planning Commission and City Council, and this report shall be made part of the public record. The City Administrator shall not be required to make a recommendation with respect to each of the matters enumerated in Section 1703 above, if the City Council or Planning Commission initiate a change in zoning of the Official Zoning Map on ten (10) or more parcels
- C. The Planning Commission shall, with respect to each such zoning proposal, investigate and make a recommendation with respect to each of the matters enumerated in Section 1702 above. The Planning Commission shall make a written record of its investigation and recommendations, and this record shall be a public record.

Section 1704. Action by City Council.

Following its public hearing the City Council may:

- A. Adopt the proposed amendment as presented;
- B. Adopt the proposed amendment as revised or supplemented by conditions of approval established by the City Council, said revisions may include, if the proposed amendment is for the rezoning of property, rezoning to the proposed Zoning District with conditions or rezoning to any other less intense Zoning District with or without conditions;
- C. Deny the proposed amendment in whole or in part;
- D. Table the proposal; or
- E. Approve the petition for amendment to be withdrawn with the consent of a majority of the City Council.

Section 1705. Conditional Zoning.

In adopting an amendment to the Zoning Map, or approving a Special Use Permit or a Variance, the City Council may impose special conditions which it deems necessary in order to make the requested action acceptable and consistent with the purposes of the district(s) involved and to further the goals and objectives of the Comprehensive Plan. Such conditions may consist of: setback requirements from any lot line; specified or prohibited locations for buildings, parking, loading or storage areas or other land uses; driveway curb cut restrictions; restrictions as to what land uses or activities shall be permitted; maximum building heights or other dimensions; special drainage or erosion provisions; landscaping or planted area which may include the location, type and maintenance of plant materials; fences, walls, berms, or other buffering provisions or protective measures; preservation of existing trees or other vegetation; special measures to alleviate undesirable views, light, glare, noise, dust or odor; permitted hours of operation; architectural style; a requirement that the existing building(s) be retained; a requirement that developers must build according to the site plans as adopted; a limitation on exterior modifications of existing buildings; or any other requirement that the City Council may deem appropriate and necessary as a condition of Rezoning or issuance of a Variance or Special Use Permit.

Such conditions:

- A. Shall only be valid if they are included in the motion approving the amendment for adoption;
- B. Shall be in effect for the period of time specified in the amendment;
- C. Shall be required of the property owner and all subsequent owners as a condition of their use of the property; and
- D. Shall be interpreted and continually enforced by the City Administrator in the same manner as any other provision of this Resolution.

Section 1706. Special Use Permits.

- A. The Special Use Permit is designed to be used when:
 - 1. A Special Use listed under the Zoning District is desired for development; or,
 - 2. A unique use not addressed in any Zoning District is desired for development and is not likely to be duplicated within City of Dacula; or
 - 3. The density of development may be affected by the height of a building; or
 - 4. The neighboring properties may be affected by the height of any structure; and
 - 5. The Special Use would be consistent with the needs of the neighborhood or the community as a whole, would be compatible with the neighborhood, and would not be in conflict with the overall objective of the Comprehensive Plan.

Section 1706. Special Use Permits. (Continued)

B. Special Use Permit Procedure.

In order to accommodate some land uses, the Special Use Permit allows the City Council to approve a Special Use on a particular parcel without changing the general Zoning District, however, the Official Zoning Map is noted when a parcel is approved for a Special Use Permit. Such approval shall be subject to the requirements set forth within Section 1701, the additional requirements below, and any additional conditions deemed necessary to ensure the compatibility of the Special Use with the surrounding properties. The Special Use Permit shall not be used for securing for conceptual proposals which may not be undertaken for some time. The minimum requirements for a Special Use Permit are:

1. Any uses permitted under a Special Use Permit shall also conform to the requirements of this Resolution and the Development Regulations for the use as found in the Zoning district.
2. The application and review process for a Special Use Permit shall be the same as for a zoning map amendment and shall meet all the Zoning District requirements under which the Special Use is found. In addition to the information and/or site plans which are required to be submitted for the proposed development, additional information deemed necessary by the City Administrator in order to evaluate a proposed use and its relationship to the surrounding area shall be submitted. In the review process, particular emphasis shall be given to the evaluation of the characteristics of the proposed use in relationship to its immediate neighborhood and the compatibility of the proposed use with its neighborhood. **The Application must demonstrate that the approval of the Special Use Permit will not contravene the public interests or negatively impact adjoining properties.**
3. In the approval process for a Special Use Permit application, the City Council shall consider the policies and objectives of the Comprehensive Plan, particularly in relationship to the proposed site and surrounding area, and shall consider the potential adverse impacts on the surrounding area, especially in regards but not limited to traffic, storm drainage, land values and compatibility of land use activities.
4. If an application is approved and a Special Use Permit is granted, all conditions which may have been attached to the approval are binding on the property. All subsequent development and use of the property shall be in accordance with the approved plan and conditions. Once established, the Special Use shall be in continuous operation. Upon discovery that the operation of the Special Use has or had ceased for a period of 90 days or more and the owner of the property has not requested voluntary termination of the Special Use Permit, the City Administrator shall forward a report to the City Council through the Planning Commission which may recommend that action be taken to remove the Special Use Permit from the property.
5. Changes to a Special Use or development of a site for the Special Use, shall be treated as an amendment to the Special Use Permit and shall be subject to the same application and review process as a new application.

Section 1706. Special Use Permits. (Continued)

6. The Special Use for which a Special Use Permit is granted shall commence operations or construction within 12 months of the date of approval by the City Council. If, at the end of this 12-month period, the City Administrator determines that active efforts are not proceeding toward operation or construction, a report may be forwarded to the City Council through the Planning Commission which may recommend that action be taken to remove the Special Use Permit from the property.
7. An application for a Special Use Permit in a residential district and which use is proposed to operate in a dwelling or as an accessory use to a dwelling is subject to the following additional requirements:
 - a. The Special Use Permit shall be valid for no more than a two (2) year period. Upon or before the expiration of a Special Use Permit, the owner shall make application to continue the Special Use Permit if continuance is desired. However, after the first two year period the City Council may waive the two (2) year time limitation with the concurrence of the Planning Commission.
 - b. The Special Use shall operate within the dwelling on the property or, if approved by the City Council, in an accessory structure.
 - c. The exterior character of the dwelling shall be preserved in its residential state and there shall be no outside evidence of the operation of the Special Use to the neighborhood, except for any accessory structure approved by the City Council.
 - d. The owner of the property shall occupy the property and shall operate any business associated with the Special Use.
 - e. The owner of the property shall submit with the application a signed statement in which he/she agrees that the Special Use Permit, if approved, shall automatically terminate in the event that the property is sold, transferred, or otherwise conveyed to any other party, or the business which operates the Special Use is sold, transferred, otherwise conveyed or discontinued. The owner shall also agree to notify the City Administrator in writing upon the occurrence of any of these events.
 - f. In addition to the information and/or site plans required by this Section, the owner of the property shall submit with the application for a Special Use Permit information regarding the ownership of any business associated with the use, the experience and background qualifications related to the operation of said business, prior similar businesses operated, applicable State of Georgia certifications, licenses and like information.

Section 1706. Special Use Permits. (Continued)

8. The owner of the property approved for a Special Use Permit, may voluntarily request termination of the Special Use Permit by notifying the City Administrator in writing. The City Administrator shall notify the City Council through the Planning Commission of the request for voluntary termination as they occur. The City Council may approve or deny the request for voluntary termination and if approved, shall change the official zoning maps to reflect any voluntary termination. The approval of a Special Use Permit for a specific use which may be operated by a lessee under a private agreement with a lessor in any non-residential district shall not obligate the City Council to be responsible for or be required to resolve any disputes which may arise out of the voluntary termination of the Special Use Permit by the property owner.
9. The City shall have the right to periodically examine the operation of the specific use to determine compliance with the requirements and any conditions. If the City Administrator determines that the requirements and conditions are being violated, a written notice shall be issued to the owner of the property outlining the nature of the violation and giving the owner of the property a maximum of ten (10) days to come into compliance. If after ten (10) days the violations continue to exist, the City Administrator shall forward a report to the City Council through the Planning Commission which may recommend that action be taken to remove the Special Use Permit from the property.
10. Upon approval by the City Council, a Special Use Permit shall be identified on the official zoning maps.
11. Upon approval by the City Council of a Special Use Permit, the owner of the property shall be issued a notice from the City Administrator which states the specific use permitted the requirements of this Section and any conditions attached to the approval.
12. The City shall not issue a Certificate of Occupancy for the specific use unless all requirements and conditions of the Special Use Permit have been fulfilled by the owner of the property.

Section 1707. Withdrawal of Application for Amendment, Variance or Special Use Permit.

Once an application for an amendment to the zoning map or an application for a Variance or Special Use Permit has been made, the applicant may withdraw such application without prejudice only until such time as the legal advertisement of a public hearing thereon is placed. No application shall be allowed to be withdrawn without action by the City Council after public notice of the public hearing has been placed. All applications, having been advertised, shall be considered by the Mayor and City Council, as appropriate, and shall receive final action.

Section 1708. Lapse of Time Requirement for Re-application of Previously Denied Amendment, Variance or Special Use Permit. The following shall apply to the applicable re-application:

If an application is denied by the Mayor and City Council, as appropriate, no application or re-application for the same Zoning Map amendment, Variance, or Special Use Permit affecting the same land or any portion thereof shall be resubmitted within twelve (12) months from the date of last action, unless such twelve (12) month period is waived by the Mayor and City Council as appropriate, and in no case may such an application or re-application be reconsidered in less than six (6) months from the date of that action by the City Council, as appropriate. Administrative variances shall not be subject to this time lapse requirement as outlined in Article XV, Section 1508.

Section 1709. Actions to be Taken if Plans of Property Owner are not Implemented Within Specified Time Limits.

For any zoning map amendment for which the City Council is not the applicant, and upon which property a development permit, building permit, or certificate of occupancy has not been issued within twelve (12) months of the date of approval of said amendment, the City Council may review the Zoning District classification of the property and determine whether it shall be continued or initiated for rezoning.

Such properties may first be reviewed by the Planning Commission, which shall make such findings and recommendations as it deems appropriate.

Section 1710. Special Public Hearing for Drug Dependence Treatment Facilities.

The following requirements are adopted as required by the Georgia Zoning Procedures Law (O.C.G.A. § 36-66-4(f)).

- A. When a proposed map amendment or special use application relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependence, a special public hearing shall be held on the proposed request. Such special public hearing shall be held at least six (6) months and not more than nine (9) months prior to the date of final action on the application by the City Council. The hearing required by this subsection shall in addition to the public hearing required under the City Code.
- B. Notice of Special Public Hearing.
 1. The City shall give notice of such special public hearing by providing notice of the hearing in the same manner as required for public hearings under the City Code.
 2. Both the posted notice and the published notice shall include a prominent statement that the proposed map amendment or special use application related to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency.
 3. Both the posted notice shall be at least six (6) column inches in size and shall not be located in the classified advertising section of the newspaper.

Section 1711. Appeals.

Any person aggrieved by a decision, denial, approval or other quasi-judicial order of the City Council may appeal by Writ of Certiorari to the Superior Court of Gwinnett County. Any such appeal must be filed within thirty (30) days from the date of the decision of the City Council. Upon failure to file an appeal within thirty (30) days, the decision of the City Council will be final.