

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF BROOKHAVEN

ORD 2017 -01-01

AN ORDINANCE TO AMEND SECTION 27-1383, DEVELOPMENT STANDARDS, OF THE CITY OF BROOKHAVEN CODE OF ORDINANCES

- WHEREAS, the City of Brookhaven is authorized to exercise the power of zoning and the regulation of signs under Ga. Const. Art. IX, Section II, ¶ IV, Ga. Const. Art. IX, Section II, ¶¶ I and III, Official Code of Georgia Annotated (O.C.G.A.) § 36-66-2(b), Section 1.03(b)(25) of the Charter of the City of Brookhaven, the City's general police powers, and by other powers and authority provided by federal, state and local laws applicable hereto; and
- WHEREAS, the City of Brookhaven adopted Chapter 27, Zoning, of the City of Brookhaven Code of Ordinances on September 23, 2014; and
- WHEREAS, the Planning Commission has held a noticed public hearing on the proposed amendments to the text of Chapter 27, Zoning, Article III, Overlay District Regulations, Division 3, Brookhaven-Peachtree Overlay District; and
- WHEREAS, after conducting a noticed public hearing, the City of Brookhaven has determined that amendments to the text of Chapter 27, Zoning, Article III, Overlay District Regulations, Division 3, Brookhaven-Peachtree Overlay District, achieves the purposes contained in Section 27-2 of the City of Brookhaven Code of Ordinances and further implements the policies 2034 Comprehensive Plan.

BE IT ORDAINED by the Mayor and Council of the City of Brookhaven, Georgia and it is hereby ordained by the authority of same:

SECTION I:

Section 27-1383, Development Standards, is amended to read as follows:

Chapter 27 – ZONING

ARTICLE III. - OVERLAY DISTRICT REGULATIONS

DIVISION 3. - BROOKHAVEN-PEACHTREE OVERLAY DISTRICT

Sec. 27-1383. - Development standards.

The Brookhaven-Peachtree Overlay District should support and enhance the look, feel and quality of development surrounding the Brookhaven/Oglethorpe University MARTA transit station. In addition to sections 27-1373 through 27-1382 above, the following standards and criteria shall apply to the Brookhaven-Peachtree Overlay District.

(a) *Principal uses and structures.*

- (1) Mixed-use with ground floor retail, office and/or service, and residential and/or office located on upper stories;

- (2) Neighborhood shopping uses, as follows, where no individual space or tenant shall exceed 50,000 square feet in total floor area:
 - a. Animal hospital, veterinary clinic, pet supply store, and animal grooming shop.
 - b. Art galleries and art supply store.
 - c. Bank, credit union and other similar financial institution.
 - d. Child day care center and kindergarten.
 - e. Recreational facilities where such activities are wholly enclosed within a building.
 - f. Restaurant, but not including drive-through restaurants.
 - g. Place of worship.
 - h. Retail sales, but not including sexually oriented businesses.
 - i. Services, personal including barbershop, beauty shop, and similar personal service establishments, coin-operated laundry, dry-cleaning pickup station, and photographic studios.
 - j. Services, repair including jewelry repair store and shoe repair store.
- (3) Residential uses, as follows:
 - a. Dwellings, multifamily;
 - b. Dwelling, single-family attached;
 - c. Live-work units.
 - d. Single-family detached dwellings are permitted on existing legally platted lots having frontage along a local road and currently zoned for single-family detached residential use and utilized as such in subarea 2 of the Brookhaven-Peachtree Overlay District.
- (4) Open space.
- (5) Community meeting and recreation facilities including, but not limited to, cultural facilities, noncommercial club or lodge, neighborhood recreation center, swimming pools, tennis courts, outdoor play areas, bikeways, and walking trails.
- (6) Educational uses including colleges and universities, vocational school, private elementary, middle and high school, research and training facility associated with a college or university, and specialized nondegree school.
- (7) Offices, including construction contractors, health service practitioners, legal services, accounting, auditing and bookkeeping services, engineering and architecture, finance, insurance, real estate and financial institutions, and similar business and professional offices.
- (8) Services, medical and health, as follows:
 - a. Health service clinic.
 - b. Home health care service.
 - c. Hospice.
 - d. Hospital including general medical, surgical, psychiatric and specialty.
 - e. Kidney dialysis center.
 - f. Nursing care facility.
 - g. Medical and dental laboratories.
 - h. Offices of health service practitioners.
 - i. Pharmacy.
- (9) Lodging uses, as follows:
 - a. Bed and breakfast inn.
 - b. Hotel.
- (b) *Accessory uses, buildings, and structures.*
 - (1) Accessory uses, buildings, and structures in compliance with section 27-1408.
 - (2) Parking decks and garages shall be considered accessory structures.

- (c) *[Live-work units.]* Live-work units shall meet all of the following standards:
- (1) Uses shall be compatible with residential uses and shall not produce or create noise, smoke, vibrations, smells, electrical interference, or fire hazards that would unreasonably interfere with residential uses. Permitted uses shall include:
 - a. Accounting office.
 - b. Planning, engineering, or architectural office.
 - c. Financial services office.
 - d. Insurance office.
 - e. Legal office.
 - f. Counseling office.
 - g. Real estate office.
 - h. Information processing uses.
 - i. Tutorial/educational services.
 - j. Fine arts studios and/or galleries.
 - k. Photography studios.
 - l. Consulting services.
 - m. The maximum number of employees on the premises shall be two, in addition to the occupants of the residential space.
 - n. The unit shall not accommodate more than two customers/clients at a time.
 - o. The minimum size of the live-work unit shall be 1,200 square feet with at least one-third of the unit designated for residential space.
- (d) *Special permits.* The following uses and structures shall be authorized only by permits of the type indicated:
- (1) *Special land use permit from city council:*
 - a. Light malt beverage manufacturer.
- (e) *Site design requirements.*
- (1) When blocks are subdivided by new streets, the maximum length of resulting new blocks shall be 300 linear feet. Along Peachtree Road, the maximum block length shall be 700 feet.
 - (2) The maximum curb radius at any intersection or curb cut is 20 feet.
 - (3) All parking shall be accessed via shared alleys or private drives. No curb cuts shall be allowed on primary streets (Peachtree Road and Apple Valley Road) if the development is accessible by another street. If an existing block face on a primary street exceeds 700 linear feet, then one curb cut per 700 linear feet is allowed. If a development is accessible from more than one secondary or tertiary street (Dresden Drive, North Druid Hills Road, Hermance Drive, Ashford-Dunwoody Road, Lanier Drive, Osborne Road and Brookhaven Place), the development shall be limited to one curb cut per block face. If a development is only accessible from one street, the development is limited to two curb cuts on that street.
 - (4) All curb cuts shall be a maximum of 24 feet wide.
 - (5) Common or joint driveways are encouraged and may be authorized by the community development director and development.
 - (6) Driveways must be perpendicular to the adjacent street. Circular and nonperpendicular driveways are prohibited.
 - (7) Buildings shall be located toward the front of each parcel no more than 20 feet from the public sidewalk. If a parcel is bound by more than one public street, the front of the parcel shall be considered the side adjacent to the street with the highest classification as follows: Primary: Peachtree Road and Apple Valley Road; Secondary: Dresden Drive, North Druid Hills Road, Hermance Drive, Ashford-Dunwoody Road, Lanier Drive, Osborne Drive, Brookhaven Place; Tertiary: new streets and other existing streets.

- (8) The primary entrance to all buildings shall be clearly visible from the street, shall face the street, and if the building is used for nonresidential purposes, shall be unlocked during operating business hours for all nonresidential uses. If a building fronts more than one public street, the primary entrance shall face the street with the highest classification as follows: Primary: Peachtree Road and Apple Valley Road; Secondary: Dresden Drive, North Druid Hills Road, Hermance Drive, Ashford-Dunwoody Road, Lanier Drive, Osborne Drive, Brookhaven Place; Tertiary: new streets and other existing streets.
- (9) Where development is on a primary or secondary street and also across the street from existing single-family homes, which face the street, the development shall contain buildings facing the primary or secondary street and the existing single-family development.
- (10) Maximum spacing between buildings along a primary street shall be 20 feet unless a public space, such as a park or plaza, is provided between the respective buildings. Exceptions will be made for curb cuts approved according to subsection (d)(3).
- (11) Minimum space between buildings shall be zero; however, if the property is adjacent to an existing building with windows facing the property line, the setback shall be 20 feet from the face of the existing building.
- (12) All service areas shall be screened from view from the street with buildings, landscaping, or decorative fencing.
- (13) Any decorative fencing shall be comprised of brick, stone, wrought iron, or wood. Fencing in the front yard of any property shall not be higher than four feet. Fencing to the rear or side of a building shall not be higher than six feet.
- (14) No barbed wire, razor wire, chain link fence or similar elements shall be visible from any public plaza, ground level or sidewalk level outdoor dining area or public right-of-way.
- (15) Gates and security arms shall be prohibited from crossing any public street or sidewalk.
- (16) All utilities shall be located underground.
- (f) *Open space requirements.*
 - (1) A publicly accessible open space, which is at grade and a minimum of 20 percent of the total development parcel, shall be provided by each new development that includes residential uses.
 - (2) All publicly accessible open spaces shall be at grade, open to general public access during daylight hours, surrounded by buildings with a mix of active uses on the ground floor on at least one side, face the public street, and be directly accessible from a public sidewalk along a street. Ground floor active uses shall include primary entries and exits into the building and may include, but are not limited to, retail storefronts, professional office storefronts and/or the primary facade of residential buildings with direct entries and exits to multiple residential units.
 - (3) Publicly accessible open spaces should include appropriate landscaping including shade trees. At a minimum one shade tree must be provided within or directly adjacent to the open space for every 2,000 square feet of open space. Shade trees must be a minimum of three and one-half inches in caliper measured 12 inches above ground, shall be a minimum of 16 feet in height, shall have a minimum mature height of 30 feet and shall be limbed up to a minimum height of eight feet.
 - (4) Publicly accessible open spaces including front yards, planted areas, fountains, parks, plazas, trails and paths, hardscape elements related to sidewalks and plazas, and similar features which are located on private property and accessible to the general public; on-street parking, the portion thereof located on private property; and natural stream buffers shall be permitted to be counted toward the 20 percent open space requirement.

- (5) Private courtyards and other private outdoor amenities shall be located at the interior of the block, behind buildings or on rooftops. Private courtyards and outdoor amenities shall be prohibited from being counted toward the 20 percent minimum open space requirement and other open space calculations that may increase maximum building heights.
 - (6) All open space including buffers, setbacks, sidewalk clear zones, sidewalk zones, and open spaces shall be fully implemented prior to issuance of a certificate of occupancy for the primary development.
 - (7) When a private property owner provides landscaping within the public right-of-way and the landscaping dies within one-year of installation, such landscaping shall be replaced within a reasonable time for planting by the owner at the owner's sole expense.
 - (8) Covenants or other legal arrangements shall specify ownership of all open spaces, the method of and responsibility for maintenance, taxes and insurance, compulsory membership and assessment provisions, and shall be incorporated into legal instruments sufficient to ensure that the open space requirements of this section are maintained.
- (g) *Building heights.*
- (1) Within the Brookhaven-Peachtree Overlay District, there shall be two sub-areas for the purpose of establishing allowable building heights. Sub-area I shall include properties directly adjacent to the Brookhaven MARTA station and parcels with frontage along Peachtree Road up to a maximum distance of 440 feet from the Peachtree Road right-of-way, where the highest intensity development is desired. Sub-area II shall include the remaining area within the Brookhaven-Peachtree Overlay District, including parcels fronting Dresden Drive, North Druid Hills Road and those areas that serve as a transitional edge between high density development surrounding the MARTA transit station and existing single-family neighborhoods. The boundaries of these sub-areas shall be established by the official zoning map incorporated herein and made a part of this chapter 27.
 - (2) All building heights are to be measured from the average elevation of the finished sidewalk measured along the building facade facing the street with the highest daily traffic volume, to the top of cornice or top of parapet wall for flat roof buildings or the bottom of the eave for slope-roofed buildings. Levels measuring less than six feet in height for the purposes of raising the first-floor level above the street level, providing a consistent first-floor level (crawl space), or for the sole purpose of housing mechanical, plumbing, or electrical equipment shall not be counted as stories for the purposes of calculating maximum building heights.
 - (3) All buildings within the Peachtree-Brookhaven Overlay District shall be a minimum of two stories tall and 28 feet in height.
 - a. The second story shall encompass 100 percent of the gross floor area of the first floor; however, up to 25 percent of the second floor may be used for architectural features including open air spaces for dining or other business purposes, atriums, stairwells, or elevators. All other architectural features must be submitted to and approved by the Brookhaven City Council.
 - b. The second floor front facade shall extend for the entire width of the first floor building facade that fronts the primary street, except as otherwise provided in the above paragraph a.
 - c. The entire indoor area of the second floor shall be conditioned space (HVAC) and available for human occupancy.

- (4) The maximum height for buildings in sub-area I shall be six stories or 80 feet whichever is less, except as provided in subsection 27-1378(b), and the maximum height for buildings in sub-area II shall be four stories or 60 feet whichever is less, except as provided in subsection 27-1378(b).
- (5) Single-family attached townhomes or live/work units in sub-area I or sub-area II shall not exceed three stories or 45 feet, whichever is less.
- (6) A building in the Peachtree-Brookhaven Overlay District shall be permitted to exceed the maximum building height limit in subsection (f)(4) provided it meets one or more of the following:
- Single-family attached townhome and live/work units are permitted to add one additional story if 20 percent of the total number of residential units within a development of 15 units or more are priced for workforce housing as defined in section 27-17. Mixed-use buildings that include residential units and multifamily buildings are permitted to add one additional story if 20 percent of the total number of residential units within a development of 20 units or more are priced for workforce housing as defined in section 27-17.
 - Commercial and residential developments are permitted to add one additional story to each building on a given parcel if a contiguous, publicly accessible open space as defined by this district in subsection (e), not including on-street parking and public sidewalks along roadways, comprising at least 25 percent of the development parcel is provided.
 - Commercial and multifamily buildings fronting Peachtree Road or Apple Valley Road are permitted to add one additional story to the respective building if 75 percent or more of the ground floor space is used for retail or service commercial uses with storefronts oriented toward a public street.
 - Buildings in excess of 60 feet in height in subarea II shall be required to step back that portion of the building greater than 60 feet in height a minimum linear distance of ten feet away from the building facade facing any public street.
 - The maximum building height with any combination of height bonuses listed above shall be dependent upon building use according to the chart below. Except as provided in subsections (g) and (h), special land use permits and variances shall not alter or allow structures taller than the maximum building heights provided herein within the Brookhaven-Peachtree Overlay District boundary:

Sub-Area I		
Building Use	Max. Building Height	Max. Building Height with Bonuses
Single-Family Attached	3 stories or 45 feet *	4 stories or 55 feet *
Commercial	6 stories or 80 feet *	7 stories or 90 feet *
Multifamily	6 stories or 80 feet *	8 stories or 100 feet *
Mixed-Use	6 stories or 80 feet *	8 stories or 100 feet *

Sub-Area II		
Building Use	Max. Building Height	Max. Building Height with Bonuses
Single-Family Attached	3 stories or 45 feet *	4 stories or 55 feet *

Commercial	4 stories or 60 feet *	5 stories or 70 feet *
Multifamily	4 stories or 60 feet *	6 stories or 80 feet *
Mixed-Use	4 stories or 60 feet *	6 stories or 80 feet *

* whichever is less

- (h) *[Transit-oriented development.]* To support transit-oriented development, buildings located within 800 feet of the Brookhaven-Oglethorpe University MARTA station fare gates and no closer than 200 feet to any single-family detached or attached residence existing and occupied at the time the additional height is requested may be granted additional building height by the City of Brookhaven City council through the special land use permit process provided each of the following provisions is met:
- (1) The total height of any building or structure shall not exceed 125 feet.
 - (2) Buildings fronting Apple Valley Road in excess of 80 feet in height shall be required to step back that portion of the building greater than 80 feet in height a minimum linear distance of ten feet away from the adjacent right of way of Apple Valley Road.
 - (3) The development containing the building for which additional height is requested shall provide publicly accessible open spaces, as defined in subsection (e), which in total comprise no less than 25 percent of the total development parcel. For properties having frontage on Peachtree Road, a minimum of one contiguous open space, no less than 10,000 square feet in size shall be located adjacent to Peachtree Road. For properties having frontage on Apple Valley Road, a minimum of one contiguous open space, suitable for community gatherings and events and no less than 40,000 square feet in size not including on-street parking, public sidewalks along roadways and roadways shall be located adjacent to Apple Valley Road. If a single development fronts both Peachtree Road and Apple Valley Road, both minimum open spaces must be provided.
 - (4) The development must provide no less than two of the following:
 - a. A minimum of 20 percent of the total number of residential units provided in the development priced for workforce housing as defined in section 27-17. Applicable residential units may include townhomes, for-sale condominiums and rental apartments.
 - b. A minimum total of 40,000 square feet of first- or second-floor retail services and/or professional office oriented toward the street provided as part of one or more mixed-use buildings with retail and/or office on the ground floor and residential and/or office uses above the first floor.
 - c. A community meeting facility provided in the form of a community center, public meeting room, or contained within a public library, available for community meetings, easily accessible to the public and with access to public restrooms and a service kitchen to support catered events and convenience food service, no less than 8,000 square feet in total size.
- (i) *[Unoccupied vertical elements.]* Unoccupied vertical elements including clock towers, bell towers, and signature architectural elements that are located within 600 feet and of the Brookhaven-Oglethorpe University MARTA station fare gates and are adjacent to a public park or plaza may be granted additional building height by the City of Brookhaven City council through the special land use permit process provided the total height of any structure does not exceed 125 feet.

- (j) *[Assemblies of parcels.]* For parcels over two acres or assemblies of parcels, the highest density shall be located at the edge of the parcel closest to the MARTA station and shall decrease toward established single-family neighborhoods.
- (k) *Development standards for townhomes.*
 - (1) Townhomes shall be set back between five to 15 feet from the back of the sidewalk. Setbacks for individual units may vary within a single block of townhomes to break up the facade and delineate individual units. This area between the sidewalk and the building facade shall contain only steps, front porches or stoops, balconies, or landscaping. Mechanical equipment and other building service items may not be located within the setback area between the public sidewalk and building facade.
 - (2) Each individual townhome shall have either a front porch or a front stoop between the front facade and the sidewalk.
 - (3) The front entrance of each townhome unit shall be above the average grade of the sidewalk directly in front of it to a maximum of three feet above grade.
 - (4) All townhome parking shall be hidden behind or within individual units. Access to parking is permitted only via an alley or private drive located behind the units. Garages may not face the public street.
- (l) *Development standards for live/work units.*
 - (1) All off-street parking shall be hidden behind or within individual units. Garages may not face the public street.
 - (2) The front entrance to each unit shall be at grade opening directly onto the public sidewalk or a public space adjacent to the public sidewalk.
- (m) *Development standards for commercial and mixed-use buildings.*
 - (1) Ground-floor commercial and retail uses shall have entrances at grade opening directly onto the public sidewalk or a public space adjacent to the public sidewalk.
 - (2) Canopies over retail and commercial entrances and/or windows shall be mounted at a single consistent height for each building.
 - (3) The size of leased commercial space shall vary within each development to allow for a diversity of tenants.
 - (4) A minimum of 65 percent of the ground-floor facade of mixed-use and commercial buildings shall be clear and untinted, transparent glass storefront.
 - (5) Pedestrian access shall be provided from parking behind buildings to the public sidewalk through the ground floor of the building or via sidewalks between buildings.
 - (6) The primary entrance for all upper story uses shall be clearly visible from the street and shall face the public street. If a building fronts more than one street, the primary entrance should face the street with the highest classification as follows: Primary: Peachtree Road and Apple Valley Road; Secondary: Dresden Drive, North Druid Hills Road, Hermance Drive, Ashford-Dunwoody Road, Lanier Drive, Osborne Drive, Brookhaven Place; Tertiary: new streets and other existing streets.
- (n) *Development standards for multifamily buildings.*
 - (1) Ground-floor residential units that face the street shall have entrances with a stoop or porch between the sidewalk and the building facade. A sidewalk shall connect all ground floor entrances to the public sidewalk.
 - (2) Multifamily buildings shall be set back between five to 15 feet from the back of the sidewalk. This area between the sidewalk and the building facade shall contain only steps, front porches or stops, balconies, or landscaping. Mechanical equipment and other building service items may not be located within the setback area between the public sidewalk and building facade.

- (3) The primary entrance for upper story units shall be clearly visible from the public street and shall face the street. If a building fronts more than one street, the primary entrance should face the street with the highest classification as follows: Primary: Peachtree Road and Apple Valley Road; Secondary: Dresden Drive, North Druid Hills Road, Hermance Drive, Ashford-Dunwoody Road, Lanier Drive, Osborne Drive, Brookhaven Place; Tertiary: new streets and other existing streets.

(o) *Density.*

Residential density in Sub-Area II shall not exceed 30 units per acre. A Special Land Use Permit may be authorized by the City Council to exceed the residential density up to a maximum of 120 units per acre.

(Ord. No. 2014-09-03, § I(27-728.15.12), 9-23-2014; Ordz. No. 2016-01-01, § II, 1-12-2016)

SECTION II:

Severability: Should any section of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

SECTION III:

Repeal of Conflicting Provisions: All ordinances, part of ordinances, maps, or regulations in conflict herewith are repealed.

SECTION IV:

Effective Date: This ordinance shall be effective immediately upon adoption.

SO ORDAINED, this 24TH day of January, 2017.

Approved by:

Approved as to Form and Content

John Arthur Ernst Jr., Mayor

Christopher Balch, City Attorney

Attest:

Susan Hiott, City Clerk

SEAL