

Zoning Ordinance Amendments

Hall County Planning Commission

June 5, 2023



Purpose of Proposed Amendments

Establish compliance with ...

- HB 1405
- HB 916
- SB 213

And other minor clean-up...

- Remove references to Zoning Board of Adjustments
- Remove references to obsolete or unused process (special exceptions, conditional use exceptions)



Zoning Procedures Law (ZPL)

- Zoning Powers are enumerated by the State Constitution to municipal and county governments
- Does not regulate *how* municipal and county governments exercise powers
- *But*, it outlines required processes to be followed when exercising zoning powers
 - Defines which actions apply
 - Required notice
 - Required hearings
 - Appeals procedures
- Required to comply with ZPL + local ordinances for due process
- Recent bills amended statutes that require local action to comply

What is HB 1405?

- State amendment to Zoning Procedures Law
- Accomplishes four main objectives:
 1. Defines quasi-judicial decisions
 2. Outlines additional hearing and notice requirements for carrying out quasi-judicial decisions (previously only zoning decisions were addressed)
 3. Articulates appeals procedures
 - Zoning decisions – de novo review
 - Quasi-judicial decisions – appellate review (writ of certiorari) – see HB 916
 4. Stipulates additional hearing and public notice requirements for amendments (zoning decisions) related to multi-family uses permitted in single-family residential zoning districts
- Requires that local and county governments amend ordinances to reflect the updates



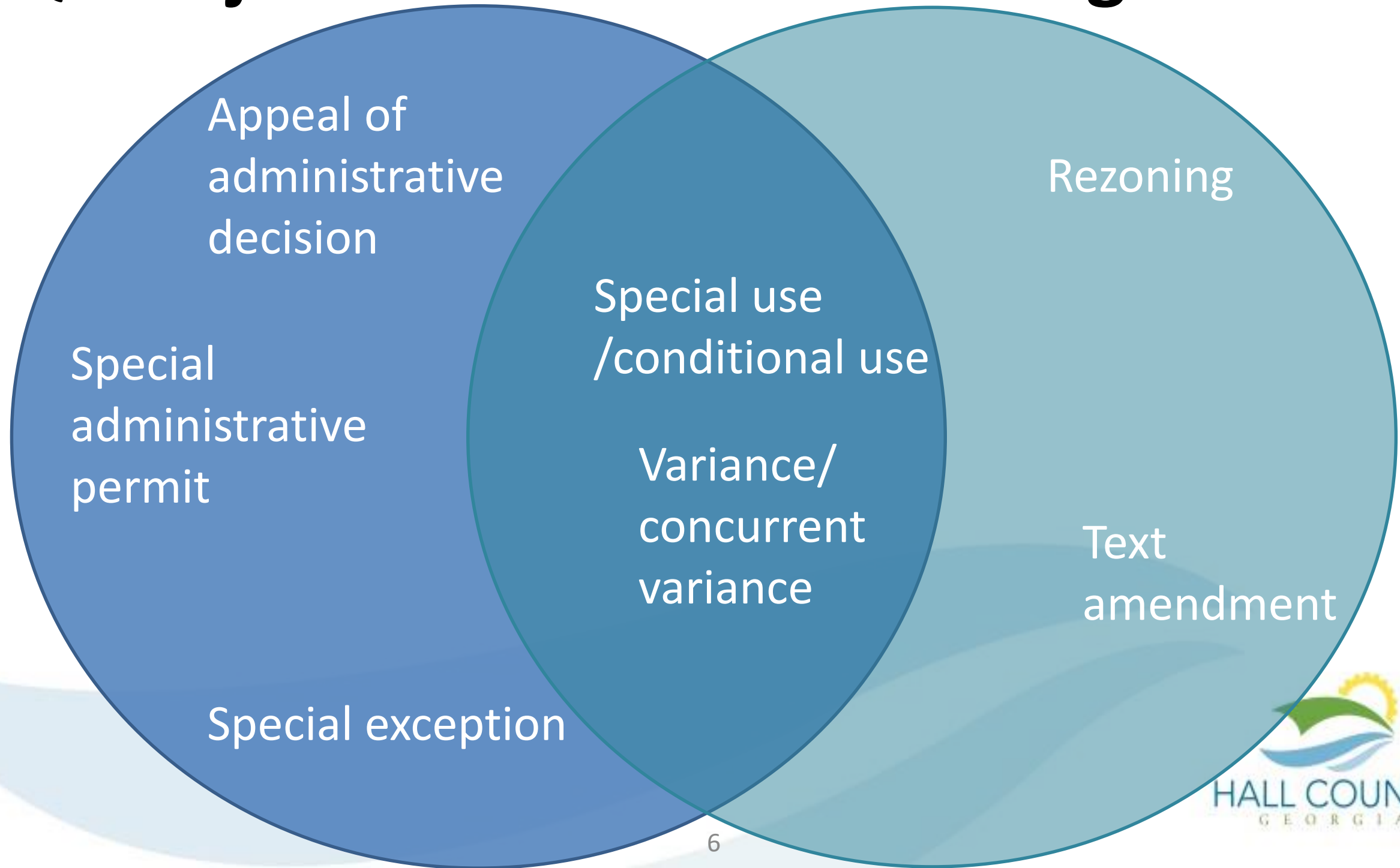
Definitions

- Defines “quasi-judicial officers, boards, or agencies” as those entities rendering decisions on variances, special administrative permits, special exceptions, conditional use permits, or other zoning decisions (Sec. 36-66-3(1.1))
- Defines “zoning decision” as a rezoning, text amendment, special use, and concurrent variances (Sec. 36-66-3(4)) – note this definition is not new
 - Incorporates “repeal” and “denial” of decisions in the definition of “zoning decision”
 - Incorporates variances concurrent with special uses of property and rezonings in the definition of “zoning decision”

- Ordinance
 - Set all notice and hearing requirements so both standards are met
 - Clarify conditional use as a zoning decision (by nature of review process)
- Practice
 - Ensure each type of case is being properly processed

Quasi-judicial Decisions

Zoning Decisions



Quasi-judicial

- 43 (1.1) 'Quasi-judicial officers, boards, or agencies' means an officer, board, or agency
44 appointed by a local government to exercise delegated, quasi-judicial zoning powers
45 including hearing appeals of administrative decisions by such officers, boards, or
46 agencies and hearing and rendering decisions on applications for variances, special
47 administrative permits, special exceptions, conditional use permits, or other similar
48 permits not enumerated herein as a zoning decision, pursuant to standards for the exercise
49 of such quasi-judicial authority adopted by a local government.
- 50 (2) 'Territorial boundaries' means, in the case of counties, the unincorporated areas

Zoning Decision

59 (4) 'Zoning decision' means final legislative action by a local government which results
60 in:

61 (A) The adoption or repeal of a zoning ordinance;

62 (B) The adoption of an amendment to a zoning ordinance which changes the text of the
63 zoning ordinance;

64 (C) The adoption or denial of an amendment to a zoning ordinance ~~which rezones~~ to
65 rezone property from one zoning classification to another;

66 (D) The adoption or denial of an amendment to a zoning ordinance by a municipal
67 local government ~~which zones~~ to zone property to be annexed into the municipality; ~~or~~

68 (E) The grant or denial of a permit relating to a special use of property;

69 (F) The grant or denial of a variance or conditions concurrent and in conjunction with
70 a decision pursuant to subparagraphs (C) or (E) of this paragraph.

Required Hearings

- Only one hearing combined required for text amendments, rezonings, special uses, and concurrent variances (or any combination thereof) (Sec. 36-66-4(a))
- One hearing per proposed action required for all quasi-judicial decisions (Sec. 36-66-4(g))

- Ordinance
 - No changes anticipated at this time
- Practice
 - Continue to vote on each decision individually

77 36-66-4.

78 (a) A local government taking action resulting in a zoning decision shall provide for a
79 hearing on the proposed action. Where the proposed action includes any combination of
80 zoning decisions under subparagraphs (C), (E), or (F) of paragraph (4) of Code Section
81 36-66-3 for the same property, only one hearing shall be required under this Code Section.
82 At least 15 but not more than 45 days prior to the date of the hearing, the local government
83 shall cause to be published within a newspaper of general circulation within the territorial
84 boundaries of the local government a notice of the hearing. The notice shall state the time,
85 place, and purpose of the hearing.

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67 local government ~~which zones to zone~~ property to be annexed into the municipality; or

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69 (F) The grant or denial of a variance or conditions concurrent and in conjunction with
70 a decision pursuant to subparagraphs (C) or (E) of this paragraph.

155 (g) A local government delegating decision-making power to a quasi-judicial officer,
156 board, or agency shall provide for a hearing on each proposed action described in
157 paragraph (1.1) of Code Section 36-66-3. Notice of such hearing shall be provided at
158 least 30 days prior to the quasi-judicial hearing, with such notice being made as provided
159 for in subsection (a) of this Code section and with additional notice being mailed to the
160 owner of the property that is the subject of the proposed action.

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44 appointed by a local government to exercise delegated, quasi-judicial zoning powers
45 including hearing appeals of administrative decisions by such officers, boards, or
46 agencies and hearing and rendering decisions on applications for variances, special
47 administrative permits, special exceptions, conditional use permits, or other similar
48 permits not enumerated herein as a zoning decision, pursuant to standards for the exercise
49 of such quasi-judicial authority adopted by a local government.

50 (2) 'Territorial boundaries' means, in the case of counties, the unincorporated areas



Notice

- Quasi-judicial decisions (Sec. 36-66-4(g)):
 - Hearing required
 - 30-days notice prior to hearing
 - Requires written notification to property owner and newspaper ad
- Zoning decisions (Sec. 36-66-4(a) and (b)):
 - Hearing required
 - 15-45-days notice prior to hearing
 - Requires signs (rezonings only) and newspaper ad

- Ordinance
 - Set all notice requirements to 30 days minimum and 45 days maximum (regardless of decision type)
 - Identify property owner and newspaper as ad recipients
- Practice
 - Adjust 2023 calendar
 - Extend application period by 30 days
 - Extend appeals process to 30 days
 - Send letters to subject property owner

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158 least 30 days prior to the quasi-judicial hearing, with such notice being made as provided
159 for in subsection (a) of this Code section and with additional notice being mailed to the
160 owner of the property that is the subject of the proposed action.

77 36-66-4.

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79 hearing on the proposed action. Where the proposed action includes any combination of
80 zoning decisions under subparagraphs (C), (E), or (F) of paragraph (4) of Code Section
81 36-66-3 for the same property, only one hearing shall be required under this Code Section.

82 At least 15 but not more than 45 days prior to the date of the hearing, the local government
83 shall cause to be published within a newspaper of general circulation within the territorial
84 boundaries of the local government a notice of the hearing. The notice shall state the time,
85 place, and purpose of the hearing.



Multi-Family Changes

- Text amendments that involve:
 - Allowing MF in a SFR district
 - Abolition of SFR classifications in the jurisdiction
 - When properties granted ability to deviate from existing zoning requirements in single-family residential zoning districts
- Does not apply to SFR uses being changed to MFR uses for owner-initiated applications
- (Sec. 36-66-4(h)(1), (2), and (3))
- Cases involving halfway houses, drug rehabilitation centers, or other facilities for the treatment of drug dependency; and annexations require additional process (note: these requirements are *not new*)

- Ordinance
 - Clearly define multi-family uses and districts
 - Distinguish multi-family uses from townhome uses in definitions
 - Adopt requirements reference only (include references for other noted uses)
- Practice
 - Reference the state code if a request meeting this standard is proposed as a county-initiated action

161 (h)(1) Notwithstanding any other provisions of this chapter to the contrary, when a
162 proposed zoning decision relates to an amendment of the zoning ordinance to revise one
163 or more zoning classifications or definitions relating to single-family residential uses of
164 property so as to authorize multifamily uses of property pursuant to such classification
165 or definitions, or to grant blanket permission, under certain or all circumstances, for
166 property owners to deviate from the existing zoning requirements of a single-family
167 residential zoning, such zoning decision must be adopted in the following manner:

168 (A) The zoning decision shall be adopted at two regular meetings of the local
169 government making the zoning decision, during a period of not less than 21 days apart;

170 and

171 (B) Prior to the first meeting provided for in subparagraph (A) of this paragraph, at
172 least two public hearings shall be held on the proposed action. Such public hearings
173 shall be held at least three months and not more than nine months prior to the date of

Multi-Family Changes (Notice)

- Post notice on each affected “premises.” If there are more than 500 parcels, posting is only required every 500 feet.
- Newspaper ad
 - Minimum of 15 days/not more than 45 days from hearing
 - Prominent notice of purpose (full description of intent of change)
 - 9 column inches
 - Not located in classified section
 - State that a copy of proposed ordinance is on file (to be furnished upon request at no cost)

- Ordinance
 - Clearly define multi-family uses and districts
 - Distinguish multi-family uses from townhome uses in definitions
 - Adopt requirements by reference only
- Practice
 - Reference the state code if a request meeting this standard is proposed as a county-initiated action

178 (i) Posting notice on each affected premises in the manner prescribed by
179 subsection (b) of this Code section; provided, however, that when more than 500
180 parcels are affected, in which case posting notice is required every 500 feet in the
181 affected area; and

182 (ii) Publishing in a newspaper of general circulation within the territorial boundaries
183 of the local government a notice of each hearing at least 15 days and not more than 45
184 days prior to the date of the hearing.

185 Both the posted notice and the published notice shall include a prominent statement that
186 the proposed zoning decision relates to or will authorize multifamily uses or give blanket
187 permission to the property owner to deviate from the zoning requirements of a
188 single-family residential zoning of property in classification previously relating to
189 single-family residential uses. The published notice shall be at least nine column inches
190 in size and shall not be located in the classified advertising section of the newspaper. The
191 notice shall state that a copy of the proposed amendment is on file in the office of the
192 clerk or the recording officer of the local government and in the office of the clerk of the
193 superior court of the county of the legal situs of the local government for the purpose of
194 examination and inspection by the public. The local government shall furnish anyone,
195 upon written request, a copy of the proposed amendment, at no cost.

196 (2) The provisions of paragraph (1) of this subsection shall also apply to any zoning
197 decisions that provide for the abolition of all single-family residential zoning
198 classifications within the territorial boundaries of a local government or zoning decisions
199 that result in the rezoning of all property zoned for single-family residential uses within
200 the territorial boundaries of a local government to multifamily residential uses of
201 property.

202 (3) This subsection shall not apply to zoning decisions for the rezoning of property from
203 a single-family residential use of property to a multifamily residential use of property
204 when the rezoning is initiated by the owner or authorized agent of the owner of such
205 property.



Written Policies and Procedures

Quasi-judicial decisions

- Policies and procedures which are outlined in ZPL (and adopted locally) shall be incorporated into ordinance
- Incorporates requirements for designating hearing procedures, criteria for review, and providing printed copies of procedures at quasi-judicial hearings (requirement already existed for zoning decisions)
- (Sec. 36-66-5)

- Ordinance
 - No additional change necessary
- Practice
 - Provide printed copies of procedures at meetings

222 (b.1) In addition to policies and procedures required by subsection (a) of this Code section,
223 each local government providing for a quasi-judicial officer's, board's, or agency's grant,
224 denial, or review of a quasi-judicial matter may adopt specific standards and criteria
225 governing the exercise of such quasi-judicial decision-making authority, and such standards
226 shall include the factors by which the local government directs the evaluation of a
227 quasi-judicial matter. Such standards shall be printed and copies thereof made available
228 for distribution to the general public.

Appeals

- Quasi-judicial decisions – subject to appellate review – reviews only the record
- Zoning decisions – subject to de novo review that reviews the record and any new evidence; direct constitutional challenge regarding the validity of zoning
- Government to designate (by ordinance or resolution)
 - Officer of quasi-judicial board to receive service (at office during regular hours)
 - Elected official or designee for quasi-judicial appeals
- Appeal stays all actions
- (Sec. 36-66-5.1)

- Ordinance
 - Designate officer to accept appeals
- Practice
 - Process appeals accordingly

Effective Date

- No text amendment to the impacted sections may be adopted after July 1, 2022, unless adoption procedures comply with the aforementioned changes (Sec. 36-66-5(c))
- That said, no zoning or quasi-judicial decision prior to July 1, 2023 is rendered invalid or void because of failure to update ordinances (Sec. 36-66-2(a))
 - Therefore, any decision after July 1, 2023 not in compliance is rendered invalid or void

- Ordinance
 - Adopt by July 2023 – scheduled for June 21, 2023 County Commission meeting
- Practice
 - Implement changes immediately upon adoption



What is HB 916?

- State amendment
- Accomplishes two main objectives:
 1. Repeals the writ of certiorari process
 2. Replaces it with a petition for review process

- Ordinance
 - Reference state language in appeals sections
- Practice
 - Process appeals accordingly

What is SB 213?

- State amendment to Zoning Procedures Law
- Accomplishes two main objectives:
 1. Outlines definitions of manufactured housing and similar types
 2. “To prohibit local governments from preventing the continuance of lawful nonconforming use of property when a preexisting manufactured home or mobile home is replaced with another such home”
- That means an existing manufactured home has to be allowed to be replaced and does not have to meet use standards, setbacks, architectural requirements, etc.

- Ordinance
 - Reference state language in nonconforming section related to manufactured homes
- Practice
 - Develop review process
 - Train Permitting staff

QUESTIONS/FURTHER DISCUSSION