

MINUTES OF THE MEETING
OF THE
DECATUR PLAN COMMISSION

Thursday, March 1, 2012
City Council Chambers Decatur Civic Center

The March 1, 2012 meeting of the Decatur City Plan Commission was called to order at 3:00 P.M. in the City Council Chambers, Third Floor of the Decatur Civic Center, by John Mickler, who determined a quorum was present.

Members Present: Steve John, Glenn Livingston, John Mickler, Jim Grady, Jack Myatt, Susie Peck

Members Absent: Matt Dial, Bill Clevenger, Kent Newton, Donald Smith, Terry Smith

Staff Present: Suzy Stickle, John Robinson, Billy Tyus, Mark Smith, Joselyn Stewart, Stephanie Ashe, Mary Cave, Kim Althoff

It was moved and seconded (Livingston/Peck) to approve the minutes of the January 5, 2012 meeting of the Decatur City Plan Commission as presented. Motion carried unanimously.

New Business

Cal. No. 12-02 Petition of ARCHER DANIELS MIDLAND COMPANY to vacate the right-of-way located in the 300 Block of North State Street.

Mrs. Brown was sworn in by Mrs. Althoff.

Mrs. Brown read the recommendation of staff:

The petitioner is requesting to vacate all of the public right-of-way on State Street between North Street and William Street. The vacation will enable the petitioner to control the Street and utilize the area as part of their property. The petitioner owns all the property to the west and approximately the northern 180 feet of the 320 foot east side of the street.

The petitioner owns a majority of the property adjacent to the street. The property owners adjacent to the south eastern portion of the street have been notified and objections were expressed, however, Staff believes the concerns have been addressed.

Letters were sent to AmerenIP, Comcast Communications, and AT&T notifying the utility companies of the vacation request and no objections to the proposed right-of-way vacation were expressed. Utility easements will be maintained.

Per terms of a redevelopment agreement with ADM that has helped to facilitate the company's recent investment in downtown which will lead to ADM bringing hundreds of employees to the area to work, the city agreed to vacate the public right-of-way at no cost as part of a redevelopment agreement. A recent appraisal of the approximately 19,250 square foot public right-of-way indicated that it has a market value of \$53,000.

The formal vacation of this public right-of-way does not appear that it will have an adverse affect on the general public.

Staff recommends approval of the public right-of-way vacation with the following condition:

- a. All easements shall be maintained.

The Administrative Policy of the City of Decatur requires that property vacation requests be submitted to the Plan Commission for a public hearing. Although a Plan Commission recommendation is not required, a motion to forward the vacation request of Calendar Number 12-02 to the City Council with a recommendation for approval is suggested.

Mr. Livingston asked Mrs. Brown if she knew the nature of the objections.

Mrs. Brown stated that the objections deal with parking concerns. Mrs. Brown stated that ADM has designated a certain amount of parking spaces to Doherty's. Mrs. Brown stated that 20 angled parking spaces will also be added on Franklin Street in 2013 through the Streetscape project.

Mr. John Hawkins was sworn in by Mrs. Althoff.

Mr. Hawkins stated that he is one of the owners of Doherty's Pubs and Pins. Mr. Hawkins passed out a copy of his objections for the vacation to City Plan Commission members and city staff. Mr. Hawkins stated that he was not notified by either the City of Decatur or ADM for their plans to vacate the street.

Mr. Livingston asked Mr. Hawkins whether he was notified and asked how many parking spaces he would lose.

Mr. Hawkins stated that he was not notified and that all of the spaces on State Street will be taken by ADM which he believes is 35 spaces which includes five (5) parallel spots on the west side of Doherty's.

Mr. Mickler asked whether signs were posted.

Ms. Stickle responded no, signs are not posted for vacations but vacations are published in the newspaper.

Mr. Grady asked what ADM's intentions are for State Street and for deliveries and disposing of trash.

Mr. John Hawkins stated that it will be difficult for deliveries for his business and also for ADM and will slow down traffic along William Street.

Mrs. Brown stated that she could not find any documentation on whether adjacent property owners were notified in 2010 when the redevelopment agreement was done. Mrs. Brown stated that for the vacation request, all adjacent property owners were notified of the vacation request. Mrs. Brown stated that as for access for trash and deliveries, ADM plans to maintain all as is and they have no plans with the street currently, except to use it for their own private access. Mrs. Brown stated that Doherty's will be able to maintain their trash location.

Mr. Mickler asked what protection does the property owner have other than ADM's word.

Mrs. Brown stated that the City can write an easement agreement to maintain easement access.

Mr. Livingston asked what the net loss in parking spaces would be.

Mrs. Brown stated that she has not calculated the number of spaces on State Street but there will be 20 new spaces added along Franklin Street. Mrs. Brown stated that if the 35 spaces are correct, it would be a net loss of 15.

Mr. Mickler asked about parking on the south side of William Street where the scaffolding is.

Ms. Stickle stated that there is currently no parking due to the scaffolding.

Mr. John stated that he would like to know more about the redevelopment agreement and asked if it would be in violation of the agreement if the City decided not to vacate the street that was already passed through City Council.

Mrs. Brown stated that City Council has already agreed to vacate the street per the redevelopment agreement in October, 2010; however, a formal vacation still needs to occur in order to satisfy the agreement and it would be in violation of the agreement if the City decided not to vacate.

Mr. Billy Tyus was sworn in by Mrs. Althoff.

Mr. Tyus stated that when the redevelopment agreement was originally signed into effect it was publicized and that the State Street vacation was talked about to some degree but he does not know whether the adjacent property owners were notified. Mr. Tyus stated that the agreement was received and filed for public inspection.

Mr. Jeff Hawkins was sworn in by Mrs. Althoff.

Mr. Jeff Hawkins stated that he is Vice-President and the Registered Agent for Doherty's, Inc. Mr. Jeff Hawkins stated that the first notice he received regarding the State Street vacation was a letter from Mr. Tyus that he received just a couple of months ago. Mr. Jeff Hawkins stated that he called Mr. Tyus about the letter who directed him to talk with Mrs. Brown. Mr. Jeff Hawkins stated that Mrs. Brown returned his call and scheduled a meeting for him to discuss with ADM and City staff. Mr. Jeff Hawkins stated that ADM did not show up for the meeting. Mr. Jeff Hawkins stated that an individual from corporate counsel at ADM did call him and told him he thought the vacation was a done deal. Mr. Jeff Hawkins stated that he feels like he is being railroaded by Corporate ADM and the City of Decatur because to vacate a street there are certain municipal codes that must be followed and the City Council cannot just vacate the street for ADM without following proper municipal codes. Mr. Jeff Hawkins stated that an individual from corporate counsel at ADM stated they would give them five (5) parking spots but Mr. Jeff Hawkins stated that the restaurant seats 140 and the banquet room seats 180 and that five (5) parking spots is not going to cut it. Mr. Jeff Hawkins stated that if the parking spaces are taken away, he does not know if they can stay in business and any day of the week around lunch time it is already hard to find a parking spot. Mr. Jeff Hawkins stated that ADM's corporate counsel told him that Doherty's will not have much lunch parking but at night ADM would let them use the spaces. Mr. Jeff Hawkins stated he has nothing in writing from ADM or the City of Decatur. Mr. Jeff Hawkins stated that when the 100 Block of South State Street was vacated by Romano, he had a written agreement with the Orlando Hotel prior to ever filing a petition and none of that was done in this case.

Mr. Livingston asked what Mr. Jeff Hawkins would like to see as the ideal scenario such as how many parking spaces he would need.

Mr. Jeff Hawkins stated that he has not really discussed that because the only offer received from ADM was the five (5) spots. Mr. Jeff Hawkins stated that on the south end of the street there are 13 spaces that are head in parking and five (5) spaces that are parallel. Mr. Jeff Hawkins stated that he would have no objection for the street to be joint use parking. Mr. Jeff Hawkins stated that at the north end of the street there are "no parking" and "tow away" signs and that if something could be provided to allow citizens to park at the north end after 5:00 P.M. that would be great.

Mr. Myatt made a motion to table the petition and Ms. Stickle asked the Commission if they were looking for some type of agreement such as the one with Romano and the Orlando.

Mr. Mickler stated yes.

Mr. Tyus wanted to add that there is parking along William Street on both sides a block away and also a parking lot in the area as well. Mr. Tyus stated that angled parking will be added along Main Street in addition to the parking along Franklin Street.

It was moved and seconded (Myatt/Grady) to table Cal. No. 12-02. Motion carried unanimously.

Cal. No. 12-03 Petition of JASON BLIESNER for a Conditional Use Permit to operate a car wash facility at 1004 WEST ELDORADO STREET in the B-2 Commercial District.

Mrs. Stewart was sworn in by Mrs. Althoff.

Mrs. Stewart read the recommendation of staff:

The subject site is developed as a car wash facility and located at 1004 West Eldorado Street.

The petitioner proposes the issuance of a conditional use permit in order to construct and operate a car wash facility in the B-2 Commercial District. A car wash facility is not an allowed use in the B-2 Commercial District without a conditional use permit. To date the existing car wash is a nonconforming use and could remain in operation as long as no additions or upgrades to the building were made but since the existing building is being demolished and a new building constructed a conditional use permit is required.

The new car wash facility will have two (2) automatic bays and four (4) self-serve bays. Egress and ingress will be off of West Eldorado Street and North Dunham Street.

Landscaping meeting the requirements of the Zoning Ordinance has been provided on the site plan.

Section XXII.A.3. lists three standards which must be met in order to grant a conditional use permit. The first standard requires the applicant to show that the use is “necessary for the public convenience at the location.” The proposed commercial use is generally compatible with the neighborhood to the south, east and west and the business provides a service which can be utilized by area residents.

The proposed use also meets the second standard. The facility is located and designed to be operated in a manner that the public health, safety and welfare will be protected.

This use also meets the third standard. The facility will not cause substantial injury to the value of other properties in the neighborhood. The existing car wash has been located at this particular site for over 30 years and it does not appear to have had an adverse effect on the neighborhood.

Based on the analysis, staff recommends approval of the conditional use permit as submitted with the following condition:

- a. Final site, landscaping and lighting plans shall be submitted to and approved by the Department of Planning and Building Services, Public Works Department and the Fire Department prior to building permits being released.

Section XXII.A.2. requires the Plan Commission to hold a public hearing on a conditional use permit request, and then forward its report and recommendation to the City Council for final approval. A motion to forward Calendar Number 12-03 to the City Council with a recommendation for approval is suggested.

Mr. Phil Cochran was sworn in by Mrs. Althoff.

Mr. Cochran stated that this site has currently been a car wash for 30 years. Mr. Cochran stated that prior to the current Zoning Ordinance, B-2 zoning allowed for a car wash and now with the current zoning ordinance, it does not allow for a car wash. Mr. Cochran stated that the owner wants to remove the current structure and add a new structure in the same place in which he will meet all of the provisions of the Zoning Ordinance and it will be an upgrade to the site.

It was moved and seconded (John/Livingston) to forward Cal. No. 12-03 to the City Council with recommendation for approval as presented by staff. Motion carried unanimously.

Cal. No. 12-04 Petition of BILLY TYUS, Director of Planning and Building Services to rescind the Conditional Use Permit to operate a drive-through coffee facility at 2505 NORTH MAIN STREET in the B-1, Neighborhood Shopping District.

Mrs. Stewart read the recommendation of staff:

The Decatur City Council approved a Conditional Use Permit (CUP) to allow for a drive-through coffee facility in the B-1 Neighborhood Shopping District at 2505 North Main Street on July 21, 2008.

It was brought to the City's attention that the property owners now want to sell off part of their property to allow for a new development to the west of their existing coffee shop. After discussions with the corporation counsel it was concluded that the old CUP would need to be rescinded and a new CUP would need to be applied for because the original CUP includes the property proposed for new development and the CUP only allows for the Coffee Connection.

The petition requests termination of the conditional use permit. Staff respectfully requests approval of the petition.

A motion to forward Calendar No. 12-04 to City Council recommending approval is requested.

It was moved and seconded (Livingston/Peck) to forward Cal. No. 12-04 to the City Council with recommendation for approval as presented by staff. Motion carried unanimously.

Cal. No. 12-05 Petition of TREVOR AND JULIE STALETs for a Conditional Use Permit to operate a drive-through coffee facility at 2505 NORTH MAIN STREET in the B-1, Neighborhood Shopping District.

Mrs. Stewart read the recommendation of staff:

The subject site is approximately .69 acres and is developed with a commercial building with drive-thru facilities.

The subject petition requests a conditional use permit to allow the use of a drive-thru coffee facility. A drive-thru facility located in the B-1 District requires a Conditional Use Permit. The site currently holds a CUP that also includes property west to Church Street. Staff is requesting that the original CUP be rescinded that included 1.28 acres. The requested CUP will only include the Coffee Connection facility property which is .69 acres.

Currently there is a drive-thru coffee facility on the site which has two drive-up windows for quick in and out service. A walk-up window is on site but no sit down service is provided.

There is also an Automated Teller Machine (ATM) service proposed on the property which is an allowed use in a B-1 District.

All landscaping meeting the requirements of the Zoning Ordinance has been installed.

The signs listed as proposed on the site plan have been installed with the previous CUP.

Section XXII.A.3. lists three standards which must be met in order to grant a conditional use permit. The first standard requires the applicant to show that the use is “necessary for the public convenience at the location.” The proposed use is generally compatible with the neighborhood and provides a service which can be utilized by area residents.

The proposed use also meets the second standard. The facility is located and designed to be operated in a manner that the public health, safety and welfare will be protected.

This use also meets the third standard. The facility will not cause substantial injury to the value of other properties in the neighborhood. The coffee shop has been at this particular site since 2008 and it does not appear to have had an adverse effect on the neighborhood.

The proposed commercial use is consistent with the intent of the Comprehensive Plan and the Decatur Urban Corridors Plan.

Based on the analysis, staff recommends approval of the conditional use permit as submitted.

A motion to forward Calendar Number 12-05 to the City Council with a recommendation for approval is suggested.

It was moved and seconded (Myatt/Livingston) to forward Cal. No. 12-05 to the City Council with recommendation for approval as presented by staff. Motion carried unanimously.

It was moved and seconded (Livingston/John) to adjourn the meeting. Motion carried unanimously. The meeting was adjourned at 3:30 P.M.

Terry Smith, Secretary
Decatur City Plan Commission