

MINUTES OF THE MEETING
OF THE
DECATUR PLAN COMMISSION

Thursday, March 2, 2017
City Council Chamber, Decatur Civic Center

The March 2, 2017 meeting of the Decatur City Plan Commission was called to order at 3:00 P.M. in the City Council Chamber, Third Floor of the Decatur Civic Center, by Chairman Glenn Livingston who determined a quorum was present.

Members Present: Bill Clevenger, Bruce Frantz, Ed Harris, Bruce Jeffery,
Kent Newton, Terry Smith, Glenn Livingston

Members Absent: Jack Myatt, Susie Peck

Staff Present: Suzy Stickle, Joselyn Stewart, Troy Hall,
John Robinson, Tim Dudley, Janet Poland

It was moved and seconded (Harris/Jeffery) to approve the minutes of the February 2, 2017 meeting of the Decatur City Plan Commission. Motion carried with Bill Clevenger abstaining from the vote.

New Business

Cal. No. 17-08 Petition of GW PLAZA, LLC, to amend the PD
Planned Development District located at 1312
NORTH WATER STREET.

Ms. Suzy Stickle was sworn in by Mrs. Janet Poland.

Ms. Stickle presented the recommendation of staff:

The subject site is currently developed with a 12,200 square foot mixed use center consisting of a gas station, convenience store, restaurants with ancillary use of video gaming, laundromat, retail and consumer credit service and is located at 1312 North Water Street.

This site was rezoned to PD Planned Development District in November of 2012 to allow for the following uses: gas station, convenience store, sandwich shop/restaurant, retail and laundromat.

It was discovered that a consumer credit service moved into the subject site in August of 2016 after speaking with the petitioner and representatives prior to the September 2016 Plan Commission meeting. The September 2016 petition was withdrawn and a new petition was to be filed to include a request for consumer credit service as a permitted use. A petition was not filed in October 2016 nor November 2016. The owner was cited for a violation of the approved PD Planned Development District in November 2016.

The petitioner proposes to amend the PD Planned Development District to allow for consumer credit services and professional office uses.

The petitioner proposes to allow for the gas station/convenience store (3,641 square feet), a coin laundromat (2,640 square feet), sandwich shop/restaurant (1,548 square feet), professional office

(1,540 square feet), retail (1,357 square feet) and consumer credit service (1,474). The square footage of the professional office, retail and consumer credit service split may vary, but the combined total of the three (3) uses will not exceed 4,371 square feet.

The addition of professional office uses to this PD Planned Development will provide services to the citizens of this area which is consistent with the intent of the originally approved PD Planned Development and with the intent of the Macon County and Decatur Comprehensive Plan. Services currently provided on site include a laundromat, gas station and convenience store, retail and restaurants with ancillary video gaming.

Since zoning is a tool to further the goals of the Macon County and Decatur Comprehensive Plan, staff recommends denial of the request to allow for consumer credit services as a use on site. Staff is of the opinion that a consumer credit service in this area - which is located in the City's regeneration area - is not consistent with the intent of the Plan as it calls for economic stability for regeneration areas in our community. By definition, the regeneration area consists of neighborhoods that are undergoing a long term adverse transition of land use and/or density. These neighborhoods exhibit physical deterioration of private structures and public facilities, underutilized land and buildings, and declining property values. Consumer credit services regularly charge interest rates higher than traditional lending institutions (such as banks, credit unions, mortgage lenders, etc.), which in Staff's opinion, works in opposition of the goal of economic stability and provide a service to the regeneration area that is in direct conflict with defined area needs. According to the Illinois Attorney General's website, "payday lenders" (which are a consumer credit service defined in the City's Zoning Ordinance) "market their products as convenient solutions to temporary cash flow problems". It also goes on to say that "one payday loan can quickly snowball into too much debt for one family to handle" and that "many payday borrowers come up short on their loan's due date, so they must take out a new loan to pay off the old one" which can have a significant negative impact on the ability to turn around land use decline in a regeneration area. Staff is of the opinion that this type of lending service is not beneficial to the health or stability of the economy in these regeneration areas.

The PD plan has been reviewed by the City's Technical Review Committee, Planning, Engineering and Fire.

Staff recommends approval of the PD Planned Development Plan with the following conditions:

1. Consumer Credit Services as a use is prohibited.
2. Square footage of the current/proposed uses shall not exceed the following: Convenience Store 3,641 square feet; Retail/Professional Office 4,371 square feet; Sandwich Shop/Restaurant 1,548 square feet and Coin Laundromat 2,640 square feet.

Section XIX.G.2. of the City of Decatur Zoning Ordinance requires the Plan Commission to hold a public hearing to review the Planned Development plan and report its findings concerning the effect on the comprehensive plan and compliance with the standards of review to the City Council. A motion to forward Calendar Number 17-08 to the City Council with a recommendation for approval with staff conditions is suggested.

Chairman Livingston asked if staff knows the proportion of customers patronizing Security Finance from the immediate area versus the outside area. Ms. Stickle said staff did not. Chairman Livingston asked if this mattered in staff's recommendation to deny this type of business. Ms. Stickle stated when the PD Planned Development was recommended by staff the businesses were to be of service to the area. Staff does not feel the consumer credit service provides a service to the area. Chairman Livingston questioned the video gaming parlor. Ms. Stickle said the video gaming

is part of the restaurant which is allowed as long as the majority of the revenue comes from the restaurant.

Mr. Terry Smith asked if there is any legal precedent to deny this type of business in the City. Mr. John Robinson said this was an issue about five (5) years ago. Community activists were present at a City Council meeting asking Council to get involved in regulating payday loans. The City regulates uses through the Zoning Ordinance.

Mrs. Mary Cave, representative, was sworn in by Mrs. Poland.

Mrs. Cave stated this PD Planned Development began in 2012 with uses of a convenience store, retail and laundromat. An amendment was granted to allow the restaurant use. This amendment will add office use and consumer credit services. Mrs. Cave said it is zoned B-2 immediately to the south and southwest, where a consumer credit service establishment would be allowed. The location also fits the 1,500 feet distance from another consumer credit service that is required.

Mr. Andrew Wessler, attorney, was sworn in by Mrs. Poland.

Mr. Wessler stated the business, Security Finance, that is currently in operation within GW Plaza is not a payday loan lender. Mr. Wessler handed out a packet which contained information from Security Finance on the types of loans they make and also an Illinois Guide to Payday Loans (packet is attached). Mr. Wessler said payday loan lenders are believed to be predatory and have been addressed by State Legislature of 2011. Security Finance offers small loans and also offers tax preparation and other consulting services.

Mr. Wessler stated Security Finance has seven (7) employees. Walgreens is an empty shell and the Warren Danz Law Office is empty. GW Plaza is the only location in the area that has patrons. Mr. Wessler said if Security Finance is asked to leave GW Plaza it will create an empty space which is not good for economic stability. Security Finance has invested over \$15,000 for interior remodeling. This would create a hardship for them if they were asked to leave. This space had been vacant for two (2) years and could possibly remain vacant for several years again. This would create a hardship for the owner, Mr. Shariff. Allowing this business to remain will not harm this area. If the entire plaza would close it will affect the economic stability.

Chairman Livingston asked why a request for a change in zoning was not asked for prior to Security Finance moving in. Mr. Wessler said the owner did not feel this was a prohibited use. Security Finance does not meet the definition of a consumer credit service.

Chairman Livingston asked Mr. Wessler what he thought the difference was between the service Security Finance and a consumer credit service offer. Mr. Wessler said the interest rate. Payday loans can have interest rates up to 400%. The amount of loan from a payday loan establishment can range up to \$40,000 and Security Finance loans are from \$330 to a maximum of \$1,500.

Chairman Livingston asked what the interest rate is that Security Finance charges. Mr. Wessler stated he was not sure and believes it depends on the type of loan it is. Mr. Wessler knows the interest rate is below 100%.

Chairman Livingston asked if they are using car titles for loans. Mr. Wessler said no.

Mrs. Cave stated that Mr. Shariff thought Security Finance would fall under office use.

There were no objectors present.

Chairman Livingston asked for staff to respond.

Ms. Stickle stated Security Finance is defined as a consumer credit service which is defined in the Zoning Ordinance. At the time staff was told Security Finance had occupied a portion of GW Plaza they were registered with the state as a consumer credit service when Mrs. Cave, Mr. Cochran and Ms. Stickle looked them up on Ms. Cave's phone. Staff has called Security Finance and requested information about a loan. The highest loan they give is \$1,500 with fifteen (15) payments of approximately \$155 a month. This came out to 72.66%. Staff felt this falls under a consumer credit service, not a normal lending service, since they are charging higher than normal rates and feels this is a detriment to the area.

Chairman Livingston asked if a consumer credit service could open across the street. Ms. Stickle said yes, assuming this one is not open.

Mr. Smith asked if there was any information that could be given to the Plan Commission concerning the penalty that has been filed by the City and the resolution. Mr. John Robinson said a case is currently pending against Security Finance in the Circuit Court concerning the violation of the City's Zoning Ordinance. The case has not been decided. Typically, violations of the City's Zoning Ordinance call for penalties per day of violation.

Mr. Smith asked if the Plan Commission should be making a decision on a case pending in Circuit Court. Mr. Robinson stated the payday loan is perhaps a distraction here. The PD Planned Development was approved by the Plan Commission and City Council for certain businesses and a consumer credit service is not a type of business that was approved in the original PD Planned Development. Staff has reviewed the request to amend the PD Planned Development for a consumer credit service business and feels it is not consistent with the needs of the neighborhood.

Several Commission members expressed concern about denying this request when consumer credit services would be allowed across the street from the GW Plaza.

Mr. Robinson stated the only item before the Plan Commission today is the petition to amend the PD Planned Development.

Mr. Bruce Jeffery asked for the definition of office space. Ms. Stickle read the definition for Professional Office Use from the Zoning Ordinance.

Chairman Livingston asked what the court date is for Security Finance. Mr. Wessler said he believes it is early April.

Mr. Bill Clevenger asked if the consumer credit service is allowed as a use in the PD Planned Development, would it block another consumer credit service to come into the B-2 Commercial District area south of GW Plaza. Mr. Robinson said if the consumer credit service would be allowed in the GW Plaza there cannot be another one within a 1,500 foot radius.

It was moved (Smith) to amend the PD Planned Development as requested and to allow consumer credit service as a permitted use. The motion failed to receive a second.

It was moved and seconded (Jeffery/Frantz) to table Calendar No. 17-08 until the outcome of the pending court case.

Ms. Amy Waks was sworn in by Mrs. Poland.

Ms. Waks stated she is the attorney for the City that is handling the court case. Ms. Waks said she wanted to make it clear that the pending zoning violation in Circuit Court will not determine what the Plan Commission wants it to. The Circuit Court will not make a decision as to how this business is classified. The violation has been filed that the business that is located in this area is in

violation of the PD Planned Development, not that is classified as this or that. The tabling of this matter will not help with the determination of the Plan Commission.

Upon call of the roll, the motion carried 5-2.

There being no further business, it was moved and seconded (Harris/Jeffery) to adjourn the meeting. Motion carried unanimously. Chairman Livingston declared the meeting adjourned at 3:55 P.M.

Kent Newton, Secretary
Decatur City Plan Commission