

MINUTES OF THE MEETING
OF THE
DECATUR PLAN COMMISSION

Thursday, April 6, 2017
City Council Chamber, Decatur Civic Center

The April 6, 2017 meeting of the Decatur City Plan Commission was called to order at 3:03 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, Bruce Jeffery, Jack Myatt, Kent Newton, Susie Peck, Terry Smith, Glenn Livingston

Members Absent: None

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

It was moved and seconded (Jeffery/Newton) to approve the minutes of the March 2, 2017 meeting of the Decatur City Plan Commission. Motion carried with Jack Myatt and Kent Newton abstaining from the vote.

New Business

Cal. No. 17-11	Petition of BRIAN AND DAWN KENDALL, for a Non-Conforming Use Permit to allow for the expansion of a non-conforming contractor and builder use in the R-1 Single Family Residence District located at 3350 WEST MARIETTA STREET.
----------------	---

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

Ms. Stickle presented the recommendation of staff:

The subject site consists of 0.45 acres and is currently developed with a single family structure and a detached accessory structure located at 3350 West Marietta Street. This site was annexed into the City of Decatur in October of 1995 and is currently zoned R-1 Single Family Residence District.

The petitioner has been operating a construction business from this location since its annexation into the City of Decatur in 1995. Prior to the annexation of this site the construction business was operating in Macon County as a home occupation. Macon County's Planning and Zoning Department has confirmed in a letter that the site was in conformance with the requirements for home occupation at the time of annexation in 1995.

The petitioner has provided numerous affidavits from neighbors having knowledge that a construction business has been located at the site ranging in time from 15 years to 34 years.

The petitioner has one (1) employee that reports to this location as an office employee. The office for the construction business is located in the single family structure.

The petitioner is seeking a non-conforming use permit to expand the existing business at the site by enlarging the detached accessory structure to allow for the storage of construction materials, six (6) work vehicles and two (2) JLG lifts. The non-conforming use of this property may continue in its current state per the Zoning Ordinance. The proposed expansion creates the requirement for a non-conforming use permit.

The expansion of a contractors and builders use in the R-1 Single Family Residence District is not consistent with the intent of the Zoning Ordinance or the Macon County and Decatur Comprehensive Plan as it calls for low density residential.

The contractors and builders use is a permitted use in the B-2 Commercial District and allowing this type of high intensity use to expand in a residential district is not with the intent of the Zoning Ordinance.

Residential districts in the City of Decatur are allowed to have home occupations that would be non-intrusive to the neighborhood and continue to allow the neighborhood to maintain a residential character. The home occupation definition requires the use of only the main structure for the business and only those members of the immediate family residing on premise to be employed by the business. This business has an office in the main structure and storage in the detached accessory structure. There is an employee who does not reside at the premise who reports to work in the office. It also requires that equipment is similar in character to that normally used for purely domestic purposes. The petitioner plans to store JLG lifts in the detached accessory structure, which are not similar in character to equipment used for purely domestic purposes. This type of business is clearly not meeting any of the requirements of the City Zoning Ordinance definition for home occupation. Expanding a use such as being requested for contractors and builders that does not remotely resemble a home occupation is not with the intent of the Zoning Ordinance.

The non-conforming use permit has been reviewed by the City's Technical Review Committee, Planning, Engineering and Fire.

Based on the analysis, staff recommends denial of the non-conforming use permit.

Section XXIII. of the City of Decatur Zoning Ordinance requires the Plan Commission to hold a public hearing on a non-conforming use permit request, and then forward its report and recommendation to the City Council for final approval. A motion to forward Calendar Number 17-11 to the City Council with a recommendation for denial is suggested.

Chairman Livingston asked if the reason for the denial is based on the additional size of the facility. Ms. Stickle said the use itself is a contractors and builders use. The Zoning Ordinance allows it to remain as non-conforming. The denial is for the expansion of the use.

Mr. Kent Newton asked if the building was the size they are proposing when it was annexed in would it be in compliance. Ms. Stickle said yes, it would continue as a non-conforming use.

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

Mrs. Cave said the current garage on the property is in poor condition and must be replaced. Mr. Kendall saw this as an opportunity to enlarge the garage to provide more functionality. He currently has four (4) vehicles and two (2) JLG lifts. Most of the vehicles are left on the job sites. Mr. Kendall was operating the business at this location since 1982 as a contract for deed property. He is currently the property owner. The property was annexed in 1995 through action by the property owner at the time. Mr. Kendall was not aware the property had been annexed. The

petitioner has met the requirements of the Zoning Ordinance to be able to apply for the non-conforming use permit. Mrs. Cave said the property does fit with the rest of the neighborhood. The expansion of the use is for the size of the structure only. It will not add employees or increase traffic causing activities.

Mr. Brian Kendall, petitioner, was sworn in by Mrs. Poland.

Mr. Kendall stated he has worked as a licensed roofer for the last thirty-five (35) years. Two (2) of his three (3) children are involved in the business. The building is inadequate and needs to come down and be rebuilt. He has four (4) vehicles and one is a personal vehicle. The JLG lifts have remained on job sites since they were purchased three (3) years ago and will remain on job sites for the next three (3) to five (5) years. Construction materials are not stored on the property and it is not his intent to start storing them. Mr. Kendall said he has fifteen (15) affidavits from his neighbors that have resided in the area since 1995. This includes his immediate neighbors to the north, south, east and west of his property. He does not have any more vehicles than any of his neighbors and believes he has their support. Mr. Kendall stated all he has ever done is improve the appearance of his property and respect his neighbor's property as well.

Chairman Livingston asked if all of the vehicles will be stored in the building. Mr. Kendall said yes.

Chairman Livingston asked if Mr. Kendall had any plans to increase his office staff. Mr. Kendall said his daughter runs his office and he does not plan on increasing his staff.

Chairman Livingston asked where the JLG lifts are stored when they are not on a job site. Mr. Kendall said very rarely he will have one in his driveway. He has jobs that are going to take several years but they will come back to the business on occasion. Chairman Livingston asked if they will fit in the building if they come back to the property. Mr. Kendall said yes.

Chairman Livingston asked the size of Mr. Kendall's staff. Mr. Kendall said there are three (3) employees and in the summer he will hire six (6) to eight (8) additional seasonal employees.

Mr. Terry Smith asked if this was just a garage addition would it be in violation. Ms. Stickle said it would not be allowed to be built without a variance as the Zoning Ordinance does not allow you to build an accessory structure larger than your main structure.

Mr. Mike Hamel, 3498 West Marietta, was sworn in by Mrs. Poland.

Mr. Hamel stated he has lived right next door to Mr. Kendall for thirty (30) years. Mr. Hamel stated Mr. Kendall runs his business out of his house and there have been no problems.

Ms. Adrienne Lynch, 1144 North Moffet Avenue, was sworn in by Mrs. Poland.

Ms. Lynch said she lives right around the corner from Mr. Kendall. She has known Mr. Kendall for more than twenty (20) years and he has always kept his house up. She said besides the vehicles parked in the driveway, you would be hard pressed to know a business was being run out of the house.

Mr. David Trimby, 3214 West Marietta, was sworn in by Mrs. Poland.

Mr. Trimby stated that he has known Mr. Kendall for over thirty (30) and he has been an asset to the neighborhood. Mr. Trimby said there are big buildings up and down the street.

It was moved and seconded (Myatt/Frantz) to forward Calendar No. 17-11 to the City Council with a recommendation for approval. Motion carried unanimously.

Chairman Livingston welcomed Mr. Michael Peoples, the newest member of the Plan Commission. Mr. Peoples observed the meeting today and will join the Commission at the next meeting.

There being no further business, it was moved and seconded (Jeffery/Kent) to adjourn the meeting. Motion carried unanimously. Chairman Livingston declared the meeting adjourned at 3:45 P.M.

Kent Newton, Secretary
Decatur City Plan Commission