

**City of Decatur  
Planning Commission**

**May 9, 2023 Regular Meeting  
MINUTES**

Decatur City Hall  
City Commission Room  
509 North McDonough Street

Members Present: Harold Buckley, Jr. (Chair), Greg Chilik, Rachel Cogburn, Jason Friedlander, Joe Greco, John McFarland

Members Absent: Mike Travis

**Call to Order.**

Mr. Buckley confirmed a quorum and called the meeting to order at 7:00 p.m. He provided introductions and delivered an overview of the procedural process for the meeting. at 7:12 p.m.

**Unfinished Business.**

**Approval of Minutes** from April 11, 2023 regularly scheduled meeting. *On a motion by Mr. Chilik, and seconded by Mr. McFarland, the minutes were approved as presented.*

Mr. Buckley read the next two items on the agenda and stated that the items would be heard concurrently due to the related nature of the applications that effect the same property. He stated that any vote on the items should be done separately. Smarties Academy c/o Bogumila Kabat, owner, has requested an amendment to a previously approved conditional use permit to increase the enrollment of a daycare at **465 Clairemont Avenue**. Smarties Academy c/o Bogumila Kabat, owner, has requested an amendment to a previously approved comprehensive site development plan to expand operations of a daycare at **465 Clairemont Avenue**. *These items were deferred from the April 11, 2023 meeting.*

Ms. Jenna Lee, Applicant Representative from Troutman Pepper, 600 Peachtree Street, NE, Atlanta, GA presented the amended application and revised plans. She stated that since the last meeting the request to increase enrollment of the daycare had been reduced from 300 to 255 students. She stated that the number of total parking spaces had been reduced to 67 spaces. She stated that the proposed addition had been relocated on the property to respond to concerns about impacts to the historic chapel building. She stated that additional information about traffic impact analysis, stormwater management, tree survey, daycare market analysis, and 3D renderings of building scale were provided in the amended materials.

In response to a question by Mr. Buckley, Ms. Lee stated that the traffic impact study has been revised to reflect the student enrollment of 255 students, and that the analysis concludes that there is less of an impact to level of service (LOS). She stated that the traffic engineer was present to answer questions about the study.

In response to a question by Ms. Cogburn, Ms. Threadgill stated that all amended and revised materials were provided to the Planning Commission in their meeting packet, except the market study which had been received the afternoon of the day of the meeting.

Mr. Friedlander stated for the record that he attended the community meeting hosted by the Smarties Academy the previous week. He stated that he did not participate in the discussions, but was there to observe and listen.

In response to a question by Mr. Friedlander, Ms. Lee stated that dismissal occurred between 2:00 p.m. and 5:30 p.m. Mr. Abdul Kareem Amer of A&R Engineering, Inc., 2160 Kingston Court, Marietta,

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GA stated that the analysis studied the existing traffic volume and turning movements of Erie Avenue, northbound and southbound, and Clairemont Avenue, eastbound and westbound, during peak hours of 7:00-9:00 a.m., 2:00-4:00 p.m., and 4:00-6:00 p.m. The analysis took into account the local school on Erie Avenue. He stated that the analysis studied the no-build and build scenarios projected out to 2025, the expected project completion year, and 2030.

Ms. Li Li of Four Square Research, Inc., 3631 Chamblee Tucker Road, Atlanta, GA stated that the Smarties Academy waitlist is over 500 families. She stated that 40 percent of the families on the waitlist are families from the 30030 zip code of Decatur. She stated the market analysis of Decatur demographics and comparison to other cities with similar demographics supports the need for more quality day care.

In response to a question by Mr. McFarland, Ms. Lee responded that there are currently 10 classrooms.

Mr. Buckley opened the floor to public comment in support of the applications.

Anna Kelly, Teacher at Smarties Academy, 465 Clairemont Avenue, spoke in favor of the requests. She spoke to the character of the owner, the teachers, programming and support of the daycare.

Li Li, Four Square Research, Inc., 3631 Chamblee Tucker Road, Atlanta, GA, spoke in favor of the requests. She spoke to the need of quality daycare and that there is a lack of childcare to meet the needs of the area.

Anna Ritchie, 2967 Ponderosa Circle, spoke in favor of the requests. She spoke to the character of the childcare operations, staff, culture and values.

Ricky Claus, 2306 Sutton Street, SE, Atlanta, GA spoke in favor of the requests, and spoke to the character of the programming. She stated that the amended plans indicate that Smarties Academy has listened to neighborhood concerns and has responded with revised plans.

Priya Schackner, 204 Lucerne Street, spoke in favor of the requests. She spoke to the character of the programming and the values of the day care.

Neal Patel, 523 Ponce Manor, Atlanta, GA, spoke in favor of the requests.

David Metzger, 432 Lockwood Terrace, spoke in favor of the requests. He spoke to the need of quality day care, and that many families walk and bike to Smarties Academy. He stated that this type of land use is compatible with the surrounding residential neighborhood and that an increase in enrollment would allow more families access to the location. He stated that Smarties Academy has given consideration to neighbor feedback as seen in the revised plans.

Jesse Kane, 2043 College Avenue, Atlanta, spoke in favor of the requests. She spoke to the character of the values and programming of Smarties Academy.

Jenisha Lodel, 3695 Midvale Road, Tucker, GA, spoke in favor of the requests. She spoke to the character of inclusive values, programming, and the diversity of the day care.

Stephanie Post, 1519 Amanda Circle, Atlanta, GA, spoke in favor of the requests. She spoke as an employee to the character of strong values, curriculum and programming offered at Smarties Academy.

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There being no further public comments either in-person or virtually in support, Mr. Buckley opened the floor to those who wished to speak in opposition to the applications.

Mark Brown, 128 Erie Avenue, spoke in opposition to the requests because of the commercial enterprise in the neighborhood, increase in parking and building size which includes a parent café and commercial kitchen. He cited that a recent request for a bed and breakfast was turned down for the same issues.

James Coblin, 136 Erie Avenue, spoke in opposition to the requests because of the concerns with construction, increase in enrollment, and the proposed café kitchen.

Ellen Slack, 139 Erie Avenue, spoke in opposition to the requests because of the concerns with lack of trust between Smarties Academy and the neighborhood. She stated that the application was submitted to the City before any contact had been made with the neighborhood.

David Kay, 143 Erie Avenue, spoke in opposition to the requests because of the concerns with the proximity of the daycare use to Clairemont Elementary School. He stated that consideration should be given to the traffic impact study 2030 build plan and the projected decrease in level of service.

Braden Gordon, 144 Erie Avenue, spoke in opposition to the requests because of the concerns with increased traffic, pedestrian crashes, and tree removal.

Julia Brown, 128 Erie Avenue, spoke in opposition to the requests because attendance records publicly available do not justify expansion. She stated that it would be hard for Smarties Academy to continue quality operations with a construction zone. She suggested that there be limitations of the parent café and any special events.

Laura Simms, 166 Erie Avenue, spoke in opposition to the requests because of concerns with increased vehicular traffic, cut-through traffic, decreased safety for children. She stated that an increase of enrollment at Smarties Academy should not occur at the expense of the Erie Avenue community.

Brian Simms, 166 Erie Avenue, spoke in opposition to the requests because of concerns with increased vehicular traffic from the expansion.

Maria Alvarez, 449 Clairemont Avenue, spoke in opposition to the requests because of concerns with increased traffic, the commercial use of the property in a residential neighborhood, and that the plans do not advance the City's strategic plan goals.

Gary Clifford, 512 Clairemont Avenue, spoke in opposition to the requests because of concerns with the traffic impact on Clairemont Avenue and the decrease in level of service, especially for left turns. He stated his concerns that Smarties Academy is not an affordable day care option.

Kate Lawes, 510 Clairemont Avenue, spoke in opposition to the requests because the project would be disruptive and create a burden on existing streets and transportation facilities. She stated the applicant response was inadequate and failed to address the traffic impacts.

Deborah Painter, 320 Superior Avenue, spoke in opposition to the requests because of concerns with traffic patterns and suggested the day care expand elsewhere.

Brent Wolfe, 118 Erie Avenue, spoke in opposition to the requests because of concerns with the proposed commercial kitchen, catering and possible leasing of the space. He stated that the conversations with the neighborhood were left unfinished. He suggested a bus service for area students if so many were within close proximity to the school.

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Gael Doyle, 449 Clairemont Avenue, spoke in opposition to the requests because of concerns with removal of trees. She questioned if the current plans account for the previous clearing of the rear lot for which a stop work order was issued last October.

Kate Schrum, 449 Clairemont Avenue, spoke in opposition to the requests because of concerns with the proximity of the rear parking lot to the 10 units of 449 Clairemont Avenue without a buffer.

Connie Davis, 219 Lucerne Street, spoke in opposition to the requests because of concerns with the additional square footage despite the daycare not at full capacity. She stated that the State allows 35 square feet per child. She stated that there is a shortage of staff among daycare facilities and that the additional classrooms will be difficult to staff. She stated that the City should be careful granting a conditional use permit for a for-profit entity in the institutional zoning district.

George Lawes, 510 Clairemont Avenue, spoke in opposition to the requests because of concerns with conditional use permit that would allow special events, lack of parking for special events, a proposed commercial kitchen and other business activities. He stated that this property is not part of the downtown commercial district and the increased intensity of use should not be allowed to expand in the neighborhood.

Richard Herzog, 455 Clairemont Avenue, spoke in opposition to the requests because the approval for a conditional use permit granted in 2022 capped enrollment at 148 students. He stated that further expansion is wholly inappropriate for the location and its construction would cause major disruptions.

Devin Gordon, 144 Erie Avenue, spoke in opposition to the requests because the expansion would be more commercial in operations, generate \$1.8 - \$2.2 million in an institutional zoning district. The proposed uses appear to be a restaurant and event space and the traffic impact study did not consider such uses.

There being no further public comment in opposition, in-person or virtually, Mr. Buckley closed public comment and stated the applicant is able to provide a rebuttal if they so wished.

Ms. Jenna Lee thanked members of the public for their comments. She stated that some comments were misinformed. She stated that the addition would be 16,000 square feet and that the increase in enrollment is largely to serve existing families with siblings. She stated in doing so, the goal was to reduce car trips. The kitchen would only serve the families who attended the daycare and would not be a restaurant or open to the public. She stated that the school is not within the middle of a single-family residential neighborhood and that there were multi-family and other institutional uses within the immediate area. Ms. Lee stated that a day care is compatible with the residential neighborhood, and would provide a walkable service to the families within the neighborhood. She recognized that some neighbors have a difficult time with change, and the change from a church to a daycare. She stated that her client, Smarties Academy, has tried in earnest to respond to the feedback and the different interests to seek a win-win outcome.

Mr. Buckley closed public comment and opened the discussion among the Planning Commission members.

Mr. Buckley stated that it does not appear to be a fear of change, but a lack of trust that the neighborhood has expressed tonight. He stated that the findings of facts were an issue with credibility, that the same entity who stated an enrollment of 148 students was all that was needed has returned scarcely a year later to nearly double enrollment. He stated his concerns with the traffic representation of the build and no-build scenarios, and that the responses to the questions for justification for an increase in

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enrollment failed to address the harm to the neighborhood. He stated for these reasons he would be voting to deny the requests.

In response to a question from Mr. Friedlander, Ms. Threadgill stated that the zoning requirements of the institutional zoning district are defined by the comprehensive site development plan, but that there are certain development codes that are expected, including landscaping requirements of parking lots, setbacks of parking lots behind the building line, and location of dumpsters and sanitation to the rear of the lot. She stated that past decisions by the Planning Commission have recommended that buildings in an Institutional zoning district maintain a minimum 30 feet setback from residential zoning districts, inclusive of a 15-foot planted buffer, and buildings generally maintain a height less than 40 to 45 feet when in the Institutional zoning district. Ms. Threadgill referenced the staff report, which cites the criteria for which the Planning Commission should use in its evaluation.

Mr. Chilik stated that the City took the applicant's assurances one year ago in good faith that the enrollment of 148 students was enough. He stated that the Planning Commission navigates compromises and the best path to satisfying both the concerns of the greater community and the needs of the landowners, but when there is no good faith effort, the ability to balance interests is lost.

Mr. Greco stated that he was not yet appointed to the Planning Commission and has had a chance to review the application in its current state without the history. He stated that the plan has evolved since it was before the commission last month and the changes are commendable. The site plan is not inappropriate for the site in general and that every change has some impact. He stated the impact on the traffic is not significant. However, Mr. Greco recognized that the starting point for the project is based on distrust and that it complicates the outcome to the project.

Mr. McFarland stated his concerns with the request for an increase in enrollment a year after the initial request was granted. He was concerned with another possible request in the future. He stated the applicant has not found a win-win outcome yet.

Mr. Friedlander stated his concerns that the previous neighborhood discussions had not been fully addressed, that the traffic patterns do not address safe exits from the property, and the amount of impervious surface and parking is an impact to the environment.

*On a motion by Mr. McFarland, seconded by Ms. Cogburn, the Planning Commission unanimously voted to recommend denial of the request for an amendment to a previously approved conditional use permit to increase the enrollment of a daycare at **465 Clairemont Avenue**.*

*On a motion by Mr. Chilik, seconded by Ms. Cogburn, the Planning Commission unanimously voted to recommend denial of the request for an amendment to a previously approved comprehensive site development plan to expand operations of a daycare at **465 Clairemont Avenue**.*

**New Business.**

Mr. Buckley read the next four items on the agenda and stated that the items would be heard concurrently due to the related nature of the applications that effect the same property. He stated that any vote on the items should be done separately. The four items are: (1) Consideration of changing the land use designation for the property located at **1121 and 1123 Clairemont Road** from LDR – Low Density Residential (DeKalb County) to C – Commercial and High Density Residential (City of Decatur) and **1119 Clairemont Avenue** from RL – Low Density Residential (City of Decatur) to C – Commercial and High Density Residential (City of Decatur). (2) Consideration of changing the zoning for the property located at **1121 and 1123 Clairemont Road** from O-I – Office-Institutional and R-75 Single Family Residential (DeKalb County) to PO – Professional Office District (City of Decatur) and **1119 Clairemont Avenue** from R-60 Single Family Residential (City of Decatur) to PO – Professional Office District (City of

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Decatur). (3) Emory Heights, LLC c/o Anamaria Hazard has requested a conditional use permit to allow a medical office at **1119 Clairemont Avenue, 1121 and 1123 Clairemont Road.** (4) Emory Heights, LLC c/o Anamaria Hazard has requested a special exception from Section 8.2.3.G.1. and 3. of the Decatur Unified Development Ordinance to construct parking between the sidewalk and the front of the building and within 30 feet of a public street for the proposed project at **1119 Clairemont Avenue, 1121 and 1123 Clairemont Road.**

Ms. Anamaria Hazard, Applicant Representative from Dentons US LLP, 303 Peachtree Street, NE, Atlanta GA, presented a powerpoint presentation that outlined the parcels in relationship to the city boundaries and unincorporated DeKalb County, and the respective land use categories and zoning districts. She stated the existing buildings would remain and the use would be professional office. The parking lots would be expanded to 23 spaces from 15 spaces and would be connected. There would be two entry points and one exit point. Humanly is the business and the use provides co-working spaces for practitioners of mental health. She stated that the owner wishes to bring the properties into the City of Decatur and that there is a pending annexation petition. The requested conditional use permit would allow for the medical office use in the PO – Professional Office zoning district for both 1119 and 1123 Clairemont Avenue and the requested special exception would allow for the expansion of parking in the front yard of 1119 Clairemont Avenue.

In response to a question by Ms. Cogburn, Ms. Hazard stated that the parking spaces are not proposed to be the maximum, which is 50 spaces. The total proposed number of spaces was derived from the anticipated need of the use rather than be over-parked.

In response to a question by Mr. Greco, Ms. Hazard stated that 1119 Clairemont Avenue was purchased two years ago and that 1123 Clairemont Avenue is already an office operated as an office by the business, Humanly.

In response to a question by Mr. Chilik, Ms. Hazard stated that the driveway of 1119 Clairemont Avenue would function as a entrance-only and would not be used as an exit.

In response to a question by Mr. McFarland, Ms. Hazard stated that the proposed parking in front of 1119 Clairemont Avenue would allow for three spaces, one of which is ADA accessible. Mr. McFarland stated his concerns with the impacts to the tree and loss of landscaping.

Mr. Buckley opened public comment for those in support of the requests. There being none, Mr. Buckley opening public comment for those in opposition of the requests.

Georgia Spivey Ashbaugh, 1111 Clairemont Avenue, spoke in opposition to the requests due to concerns with the land use designation of commercial and high density, previous stormwater infrastructure failures, stormwater run-off onto her property and the need for pervious pavers to assist in the reduction in run-off.

Gary Clifford, 512 Clairemont Avenue, spoke in opposition to the requests because of questions with their intentions for the rear of the property and outstanding questions with traffic flow.

George Lawes, 510 Clairemont Avenue, spoke in opposition to the requests because of questions about future intentions of the property, especially if the property is annexed and it becomes a more valuable parcel. The proposed use is acceptable but the concerns are with the future potential of the property.

Robert Spivey, 1111 Clairemont Avenue, spoke in opposition to the requests due to concerns with the impacts of the proposed parking lot expansion on the concrete sidewalk and lamp posts of his

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property. He suggested that the residential zoning be retained and that the office use be permitted while the applicant owns the land.

There being no further public comment in opposition, in-person or virtually, Mr. Buckley stated the applicant is able to provide a rebuttal if they so wished.

Ms. Hazard responded to the questions that were asked during public comment. She stated that the professional office use requires a conditional use permit and that office use is not permitted in the current R-60 zoning district. She stated that the rear of the lot would remain undeveloped except for the portion that is shown to expand the parking. She stated that 1119 Clairemont Avenue has two levels without an elevator, therefore an ADA accessible parking space is needed each at the top level and at the lower level of the building adjacent to the entry points. She stated there will be a total of 23 spaces not 50 spaces, which would be of minimal impact to run off.

Mr. Buckley closed public comment and opened the discussion among the Planning Commission members.

In response to a question by Mr. Buckley, Ms. Hazard stated that the extra 7 spaces and driveway is not expected to increase run-off. Ms. Threadgill added that the development codes require on-site stormwater management when land disturbance exceeds 500 square feet.

In response to a question by Mr. McFarland, Ms. Threadgill stated that the lot coverage of R-60 is 40 percent maximum and that the maximum allowable lot coverage of the PO zoning district is 50 percent.

Mr. McFarland stated that the minimum tree canopy coverage of the R-60 zoning district is 60 percent, whereas the PO zoning district is 40 percent. He stated that the change of zoning would permit a greater extent of tree loss and would support limitations to protect existing tree canopy. He stated that he supports up to two parking spaces in the front of 1119 Clairemont, but not the full three spaces requested due to the impacts to a tree and landscaping.

Mr. Friedlander stated that he is not in favor of expanding the front parking pad.

*On a motion by Mr. McFarland, seconded by Mr. Greco, the Planning Commission unanimously voted to recommend approval of the change in land use designation for the property located at **1121 and 1123 Clairemont Road** from LDR – Low Density Residential (DeKalb County) to C – Commercial and High Density Residential (City of Decatur) and **1119 Clairemont Avenue** from RL – Low Density Residential (City of Decatur) to C – Commercial and High Density Residential (City of Decatur).*

*On a motion by Mr. Greco, seconded by Ms. Cogburn, the Planning Commission unanimously voted to recommend approval of the change in zoning for the property located at **1121 and 1123 Clairemont Road** from O-I – Office-Institutional and R-75 Single Family Residential (DeKalb County) to PO – Professional Office District (City of Decatur) and **1119 Clairemont Avenue** from R-60 Single Family Residential (City of Decatur) to PO – Professional Office District (City of Decatur).*

*On a motion by Mr. McFarland, seconded by Mr. Friedlander, the Planning Commission unanimously voted to recommend approval of the conditional use permit to allow a medical office at **1119 Clairemont Avenue, 1121 and 1123 Clairemont Road** with the following conditions:*

- 1. The property shall be developed according to plans substantially similar to those submitted, attached as Exhibit "B," except as follows:*

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- a. *The proposed rear parking lot of 1119 Clairemont Avenue shall be set back from the south property line to permit sufficient space for the installation of the required fence or landscaped buffer as described in Condition No. 2 below; and*
- b. *The proposed front parking lot of 1119 Clairemont Avenue shall not exceed the dimensions required of one ADA handicap accessible parking space.*
2. *For the entire distance along the east and south abutting property lines a solid fence of at least 6 feet in height or a landscaped buffer of plant material that will provide a dense, solid screen of at least 6 feet in height within 3 years shall be installed and maintained for the duration of the conditional use permit;*
3. *The canopy coverage of the site shall not be reduced below 60 percent;*
4. *No major amendments to a conditional use permit shall be authorized unless such amendments have been applied for and approved by City Commission with Planning Commission recommendation. Major amendments are those that impact adjoining or nearby property in any manner other than incidentally, and shall include but not be limited to the following: a) Changes to another use; b) Increase in density or intensity; c) Enlarging, expanding or increasing the size or intensity of the approved use; d) increase in the requirements for off-street parking spaces; e) Substantial change to the exterior appearance of buildings that is visible from any public right-of-way; or f) The addition of outdoor equipment and machinery; and*
5. *The requirements of the conditional use permit shall be required of the property owner and all subsequent owners.*

*On a motion by Mr. Chilik, seconded by Mr. Greco, the Planning Commission unanimously voted to recommend approval of the special exception to allow parking between the sidewalk and the front of the building and within 30 feet of a public street for a professional office use at **1119 Clairemont Avenue** with a condition that the proposed front parking area of 1119 Clairemont Avenue shall not exceed the dimensions required of one ADA handicap accessible parking space.*

**Other Business.**

The draft of the Downtown Master Plan will be presented at a City Commission work session on Monday, May 15, 2023 at 6:15 p.m. at Decatur City Hall. The presentation will be available for viewing via Zoom or live stream.

**Adjourn.**

There being no other business, the meeting adjourned at 10:40 p.m.

Consistent with the requirements of O.C.G.A. §50-14-1(e)(2)(B) these minutes were approved at the next regularly scheduled meeting on June 13, 2023 and made part of the record.

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(draft)

Angela Threadgill  
Planning and Economic Development Director  
Acting Secretary to the Planning Commission