



**Planning Commission Staff Report**  
**April 2024**

The Planning Commission will meet on April 9, 2024. The following staff report has been prepared for an amended application that was received by the Planning and Zoning Division of the Community and Economic Development Department.

**Applicant:** Smarties Academy c/o Bogumila Kabat w/ MerVic Group

**Property Address:** 465 Clairemont Avenue

**Parcel ID:** 18 006 03 105

**Present Land Use Category:** I – Institutional

**Present Zoning District:** I – Institutional  
Clairemont Avenue Historic District (Overlay District)

- 1. The Property.** The subject property is an approximate 2.55-acre parcel (111,078 SF) currently owned by MerVic Group. The applicant, Smarties Academy, currently owns and operates a day care and early childhood education center from the existing 13,700 SF building for up to 148 children. Abutting properties to the north and west are zoned R-60 – Single Family Residential. Properties to the south and east are zoned RM-43 – Multiple Family Residential.
- 2. Previous Approvals and Applications.** The subject property was approved for a change in land use designation from RL – Low Density Residential to I – Institutional, per Ordinance O-22-Z-04; was approved for a change in zoning district from R-60 – Single Family Residential to I – Institutional with a condition, per Ordinance O-22-Z-05; and was granted a conditional use permit with conditions, per Ordinance O-22-Z-06, each having been approved on March 21, 2022.

Furthermore, the Applicant filed an application in 2023 to amend the zoning and conditional use permit condition to allow an increase in the day care/pre-school enrollment from 148 to 300 students, construct a new 16,500 SF building addition,

increase impervious surfaces by 23,000 SF, and increase off-street parking from 47 spaces to 67 spaces. This request was withdrawn by the applicant in May of 2023.

3. **Zoning Approval.** The approved rezoning has the condition of approval that no more than 148 students be enrolled at the day care.

*Proposed increase of student enrollment. The applicant has filed an application to amend the zoning condition #1 to allow an increase in the day care/pre-school enrollment from 148 to 178 students.*

4. **Conditional Use Permit.** Per the Allowed Use Table in Section 6.2. of the UDO, day cares are allowed within the I – Institutional district with a conditional use permit. The conditional use permit that was granted allowed the current day care use, with the condition that no more than 148 students be enrolled at the day care. A second condition required that an ingress-egress plan be provided to the City.

*Proposed increase of student enrollment. The applicant has filed an application to amend condition #1 of the conditional use permit to allow an increase in the day care/pre-school enrollment from 148 to 178 students.*

5. **Comprehensive Site Development Plan.** At the time of the rezoning to I – Institutional zoning district a comprehensive site development plan of 465 Clairemont Avenue was adopted.
6. **Other requirements.** If approved, the project remains subject to current State and local life safety and fire codes, building codes, site development, local soil erosion, drainage, tree preservation, and historic preservation ordinances. The property is located within the Clairemont Avenue Local Historic District.
7. **Modifying a Zoning Condition of Approval.** Per Section 11.2.2.J. of the UDO, the following standards shall be considered when modifying a zoning condition of approval:

- 1) In approving an amendment to the zoning map, the Planning Commission may recommend and the City Commission may impose conditions which it deems necessary in order to mitigate impacts which may be expected without the imposition of those conditions. Such conditions may consist of a variety of requirements, including, but not limited to, setbacks from any lot line; specified or prohibited locations for buildings, parking, loading or storage areas or other

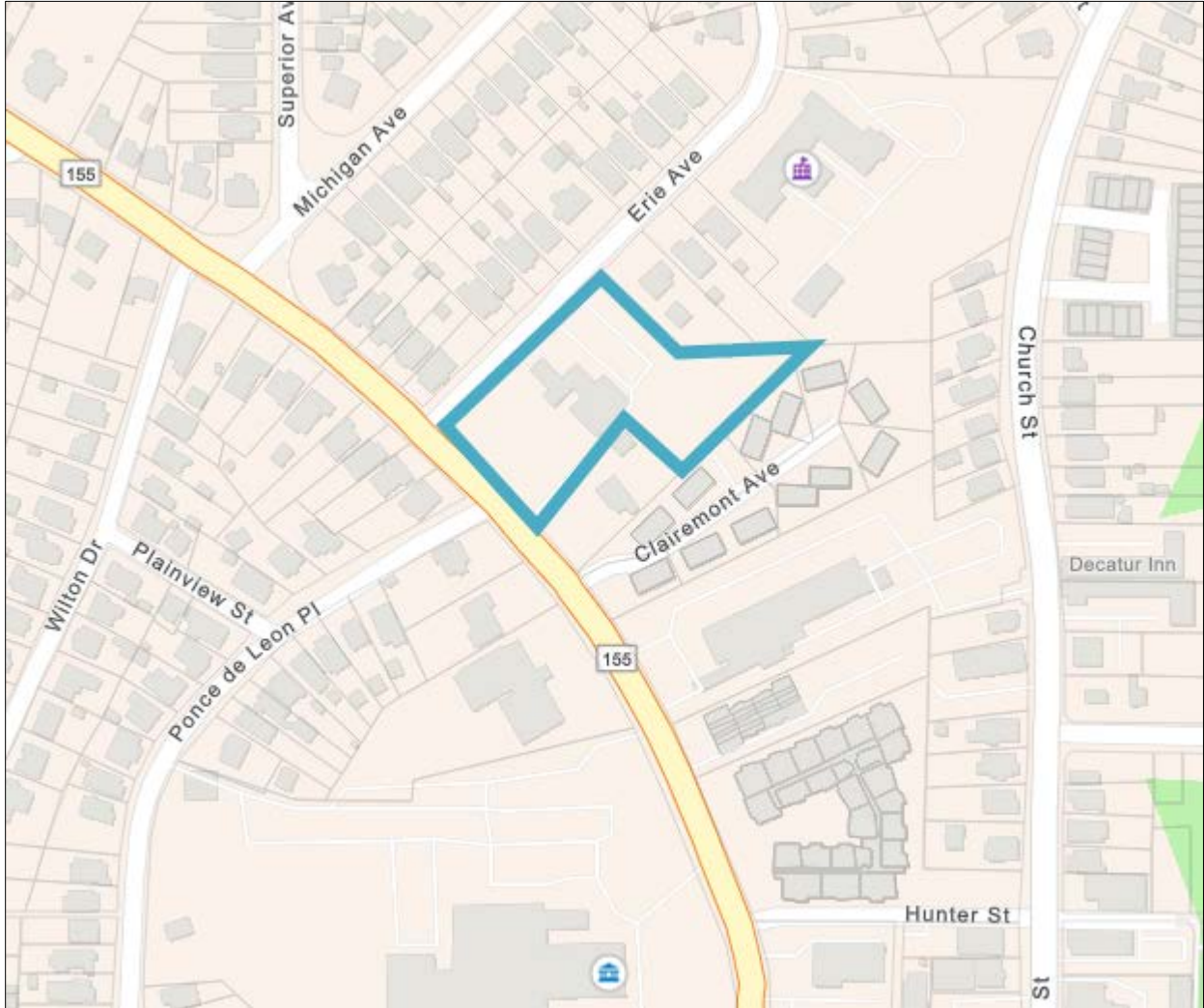
land uses; restrictions in the location of driveways and curb cuts; restrictions regarding what land uses or other activities may be permitted; maximum building heights and other dimensions; landscaping requirements which may include location, type and maintenance of plant materials, fences, walls, earth berms or other buffer provisions; screening or other protective measures; preservation of existing trees and other vegetation; special measures to alleviate undesirable views, light, glare, noise, dust or odor; permitted hours of operation; architectural style; a requirement that the existing building(s) be retained; a requirement that development take place according to a site plan; a limitation on exterior modifications to existing buildings; public facility improvements by the owner; a time limit within which the property must either be used as rezoned or revert to the prior or other appropriate zoning status; or any other requirement deemed appropriate and necessary as a condition of rezoning.

- 2) Requirements imposed as a condition to rezoning shall be required of the property owner and all subsequent owners as a condition of the use of the property as rezoned.
- 3) Requirements imposed as a condition to rezoning shall be interpreted and continuously enforced by the Zoning Administrator in the same manner as any other provision of the zoning ordinance.

**8. Amending a Condition of a Conditional Use Permit.** Per Section 11.2.3.i. of the UDO, the following standards shall be considered when amending a condition of a conditional use permit:

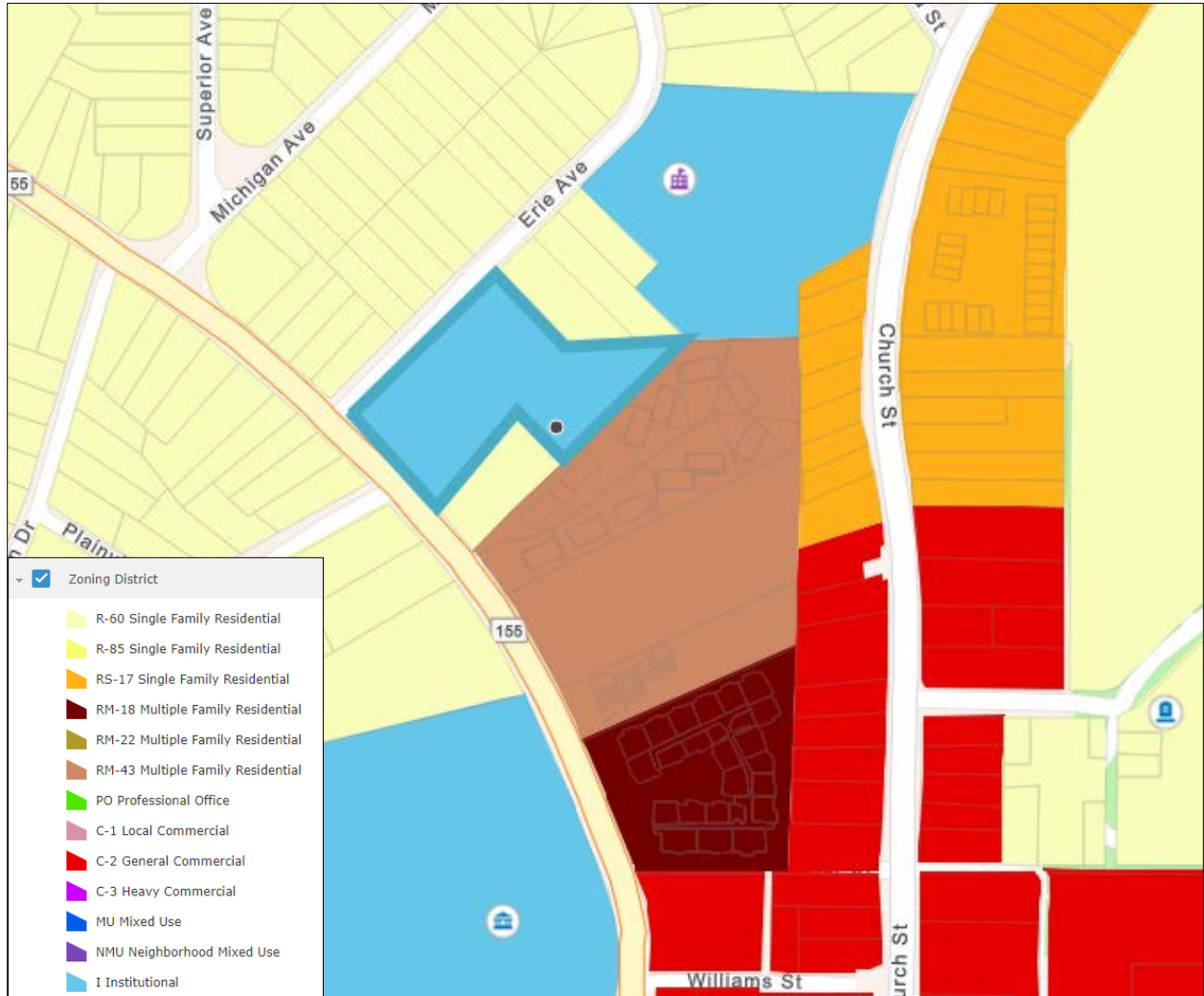
- 1) The proposed conditional use may be approved subject to such conditions as may be imposed in order to mitigate impacts on nearby properties which may be expected without the imposition of conditions.
- 2) Requirements imposed as a condition shall be required of the property owner and all subsequent owners.
- 3) Requirements imposed as a condition shall be interpreted and continuously enforced by the Zoning Administrator in the same manner as any other provision of the UDO.

**Exhibit A**  
**Location Map**



Source: City of Decatur OneMap

### Exhibit B Zoning Map



Source: City of Decatur OneMap



**Exhibit C**  
**Property Views**



*View from Clairemont Avenue of the classroom building and of 455 Clairemont Avenue.*



*Aerial view of subject property at 465 Clairemont Avenue.  
Source: DeKalb County Imagery 2022.*