

**STAFF REPORT**  
**Decatur City Plan Commission**

<b>Hearing Date</b>	November 5, 2020
<b>Calendar No.</b>	20-38
<b>Proposal</b>	Amendments to Zoning Ordinance (Ordinance #3512, as amended) to Section II. Definitions and Section IV.A. Compliance with Land Development Regulations to amend home occupation regulations and add provisions to combine and divide zoning lots.
<b>Petitioner</b>	Greg Crowe, Planning & Development Manager

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**BACKGROUND**

The current City of Decatur Zoning Ordinance was adopted in May of 2002. Over time, Staff has determined certain amendments are necessary to make the Zoning Ordinance more comprehensive and applicable to the changing built urban environment while keeping the charge of making Decatur a quality place to live, work and play.

**DESCRIPTION/ANALYSIS**

1. The proposed amendment to the Zoning Ordinance home occupation definition will allow for limited dog grooming, barber and beauty shop services for no more than one client at a time in the home. This allowance should allow for these services in homes while assuring that there will not be a large congregation of vehicles and clients in neighborhoods. This amendment has taken on more importance with COVID-19 restrictions to these services. Also, tattoo parlors were added to services not allowed for home occupation for clarification.
2. The addition of provisions allowing for the combination and division of zoning lots will eliminate the need in some instances for property owners to prepare and record a plat of subdivision which can be costly. Zoning lots will be defined in the Zoning Ordinance as one or more buildable lots under single ownership that are combined to form a single tract to be used, developed, or built upon as a unit.

In many areas of Decatur, particularly the central core of the City, it is common for multiple lots to be assembled by a property owner for one development. This is becoming even more common with the side yard program as property owners are interested in obtaining vacant side yard lots to expand their property boundaries. The Council earlier in 2020, approved a Zoning Ordinance amendment allowing for small accessory structures, such as garden sheds under 100 square feet, to be placed on side lots under the same ownership.

However, permitted accessory structures, such as detached garages and larger sheds, must currently be located on a single lot with the primary structure (residence). Under the current Zoning Ordinance, property owners are required to hire a land surveyor and engineer to replat to combine the two or more lots into one lot. This is both costly and time consuming for property owners. The proposed Zoning Lot combination application process should allow property owners to provide the necessary information themselves to combine the two adjacent lots into one zoning lot allowing for the placement of large accessory structures including garages on the adjacent lot.

Establishing a Zoning Lot will require an application to be reviewed by City Staff, and an affidavit recorded at the County Recorder's Office. The affidavit will alert future property owners to this designation. Also, any future request to divide the created zoning lot will require written release from the City Zoning Administrator ensuring that no Zoning Violations will occur if the Zoning Lot is subdivided in the future including a large accessory structure used for storage being located on a zoning lot without a primary structure.

An added definition for Adjacent Lots is proposed to clarify that lots separated by a street, public alley or public walkway shall not be deemed to be adjacent and cannot then be joined as one Zoning Lot. Existing easements on the property will not be impacted by the Zoning Lot Designation and development of property will still need to respect these easements. Creation of a Zoning Lot will only be permitted for lots of the same zoning district classification.

#### **STAFF RECOMMENDATION**

Staff recommends approval of the amendments as proposed.

#### **PLAN COMMISSION ACTION**

Section XXIX.G. of the Zoning Ordinance requires the Plan Commission to hold a public hearing and make recommendations to the City Council on amendments to the Zoning Ordinance. A motion to forward Calendar Number 20-38 to City Council with a recommendation of approval is suggested.

The above report constitutes the testimony and recommendation of the Planning and Development Division, Community Development Department, City of Decatur.

#### **ATTACHMENTS**

1. Petition
2. Mark-Up



**City of Decatur, Illinois**

**PETITION FOR REZONING**

*Petition before the Mayor, City Council and Members of the Plan Commission of Decatur, Illinois*

Community Development Department  
 One Gary K. Anderson Plaza  
 Decatur, Illinois 62523-1196

424-2793  
 FAX 424-2728

**Please Type**

**SECTION ONE: PETITIONER / OWNER / REPRESENTATIVE INFORMATION**

<b>Petitioner</b>	Greg Crowe, Planning and Development Manager				
<b>Address</b>	#1 Gary K. Anderson Plaza				
<b>City</b>	Decatur	<b>State</b>	IL	<b>Zip</b>	62523
<b>Telephone</b>	217-424-2786	<b>Fax</b>		<b>E-mail</b>	gcrowe@decaturil.gov
<b>Property Owner</b>	N/A				
<b>Address</b>					
<b>City</b>		<b>State</b>		<b>Zip</b>	
<b>Telephone</b>		<b>Fax</b>		<b>E-mail</b>	
<b>Representative</b>	N/A				
<b>Address</b>					
<b>City</b>		<b>State</b>		<b>Zip</b>	
<b>Telephone</b>		<b>Fax</b>		<b>E-mail</b>	

**SECTION TWO: SITE INFORMATION**

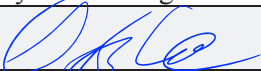
<b>Street Address</b>	N/A					
<b>Legal Description</b>	N/A					
<b>Present Zoning</b>	<input type="checkbox"/> R-1	<input type="checkbox"/> R-2	<input type="checkbox"/> R-3	<input type="checkbox"/> R-5	<input type="checkbox"/> R-6	Is this property a Planned Unit Development? <input type="checkbox"/> YES      Approval Date: _____ <input type="checkbox"/> NO
	<input type="checkbox"/> B-1	<input type="checkbox"/> B-2	<input type="checkbox"/> B-3	<input type="checkbox"/> B-4	<input type="checkbox"/> O-1	
	<input type="checkbox"/> M-1	<input type="checkbox"/> M-2	<input type="checkbox"/> M-3	<input type="checkbox"/> PMR-1		
<b>Please list all improvements on the site:</b>						
<b>Size of Tract</b>	<input type="checkbox"/> SF <input type="checkbox"/> AC					

**SECTION THREE: REQUESTED ACTION**

<b>Rezoned Property To:</b>	<input type="checkbox"/> R-1	<input type="checkbox"/> R-2	<input type="checkbox"/> R-3	<input type="checkbox"/> R-5	<input type="checkbox"/> R-6	Will this property be a Planned Unit Development? <input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> B-1	<input type="checkbox"/> B-2	<input type="checkbox"/> B-3	<input type="checkbox"/> B-4	<input type="checkbox"/> O-1	
	<input type="checkbox"/> M-1	<input type="checkbox"/> M-2	<input type="checkbox"/> M-3	<input type="checkbox"/> PMR-1		
<b>Other:</b>	Amend Zoning Ordinance (Ord. #3512, as amended)					

<i>Section Three Continued</i>	
<b>Purpose</b>	<i>Please state the purpose of the proposed rezoning.</i>
Proposed amendments to Section II. Definitions and Section IV.A. Compliance with Land Development Regulations to amend home occupation regulations and add provisions to combine and divide zoning lots.	

<b>SECTION FOUR: JUSTIFICATION</b>
<i>The petitioner submits to the City Plan Commission and City Council the following facts (additional pages may be attached):</i>
<p>The amendment to the home occupation definition will allow for limited dog grooming, barber and beauty shop services for no more than one client at a time in the home. This allowance should allow for these services in homes while assuring that there will not be a large congregation of vehicles and clients in neighborhoods. This amendment has taken on more importance with COVID-19 restrictions to these services.</p> <p>The addition of provisions allowing for the combination and division of zoning lots will eliminate the need in some instances for property owners to prepare and record a plat of subdivision which can be costly. Zoning lots will be defined in the Zoning Ordinance as one or more buildable lots under single ownership that are combined to form a single tract to be used, developed, or built upon as a unit.</p>

<b>SECTION FIVE: CERTIFICATION</b>			
	To be placed on the agenda of the regular meeting on the first Thursday of the month at 3:00 PM in the City Council Chambers, petition must be received on the first Thursday of the preceding month. Failure of the petitioner or the petitioner's representative to attend the Plan Commission hearing may result in items being tabled. Incomplete or erroneous petitions may delay items being heard by the Plan Commission.		
<b>Petitioner's Signature</b>		<b>Date</b>	9/15/2020

<b>NOTES:</b>	
<ol style="list-style-type: none"> <li>1. Please forward this completed form and attachments to the Community Development Department, Third Floor, Decatur Civic Center. Please make checks payable to the City of Decatur. See Schedule "A" for fees.</li> <li>2. Signature of this petition grants permission to City staff to place a sign, indicating a request for zoning action, on the subject property at least 10 days prior to the Decatur City Plan Commission hearing. Said sign will be removed within 15 days of final action by City Council.</li> <li>3. In the event a petition for rezoning is denied by the Council, another petition for a change to the same district shall not be filed within a period of one year from the date of denial, except upon the initiation of the City Council or the City Plan Commission after showing a change of circumstances which would warrant a renewal.</li> <li>4. All petitions before the Decatur City Plan Commission are reviewed through the Development Technical Review (DTR) Process. Please consult the DTR Brochure for information related to this process.</li> </ol>	

OFFICE USE ONLY	
Date Filed	
By	

## ADDITIONS AND DELETIONS

### - ZONING ORDINANCE -

#### **SECTION I. DEFINITIONS**

HOME OCCUPATION: Any occupation or activity entirely incidental to residential use, when (1) carried on in the Main Building and is not used primarily or exclusively for the home occupation; (2) is carried on by a member of the immediate family, residing on the premises, (3) there is no commodity displayed or sold upon the premises; (4) no person is employed other than a member of the immediate family residing on the premises; (5) there is no congregation of two or more non-resident employees, clients, subcontractors, or other persons engaging in business activity at a dwelling unit; and (56) no mechanical equipment is used except of a type that is similar in character to that normally used for purely domestic or household purposes. (Amended, Ordinance No. 2005-105, December 19, 2005)

Home occupation shall also include: private tutoring limited to three pupils at any one time; nursery schools limited to three pupils; musical instruction limited to a single pupil at a time and a maximum of four hours of instruction per day; day care home, small; barber/beauty shop (limited to no more than one (1) client at a time); dog grooming (limited to no more than one (1) client at a time and no kenneling of any sort); architects, professional engineers, surveyors, and other professional persons, provided that no person is employed other than a member of the immediate family residing on the premises. However, a home occupation shall not be interpreted to include ~~barber shops and beauty parlors,~~ palm reading/tarot card reading or similar business in which spiritual advice or fortune telling is conducted for a fee; tattoo parlors, commercial stables, kennels, or any kind of automotive service and repair except cars that are registered to the subject address or incidental to the use of the property. (Amended, Ordinance No. 2005-105, December 19, 2005)

Home occupation may include the use of premises by a physician, surgeon or dentist for an office, consultation, or emergency treatment, but not as a clinic, hospital, or other medical practice. (Amended, Ordinance No. 2002-72, August 19, 2002)

LOT, ADJACENT: Lots that are adjoining, bordering, touching, or contiguous. If two (2) lots are separated by a street, public alley, or public walk they shall not be deemed to be adjacent.

LOT, ZONING: One (1) or more buildable lots located within a single block, which is designated as a tract to be used, developed, or built upon as a unit under single ownership or control. A zoning lot may or may not coincide with a lot of record.

## SECTION IV. COMPLIANCE WITH THE REGULATIONS

### A. COMPLIANCE WITH LAND DEVELOPMENT REGULATIONS:

Except as hereinafter specifically provided:

#### 13. Combination and division of zoning lots

- a. Two (2) or more adjacent lots of the same zoning classification which are under the same ownership may be combined to create a single zoning lot upon approval by the Zoning Administrator.
- b. Any person wishing to combine two (2) or more lots in the manner provided in this section shall make an application to the Zoning Administrator on a form provided by said Administrator. The application shall be reviewed by the Zoning Administrator who, upon finding that the application meets the requirements of this section, shall approve the same. Approval of the application shall be documented by an affidavit signed by the Administrator, which affidavit shall, at minimum, contain the following:
  - i. A complete legal description of the lots that are being combined.
  - ii. A restriction providing that should said combined lots ~~shall not be~~ ~~again~~ separated by sale or otherwise without the written consent and release of the Zoning Administrator, accessory use and other zoning restrictions applicable on the date of filing of the affidavit shall again be applicable, subjecting the owners to the obligation of promptly remediating any non-conforming use(s), and to penalties for violating the City of Decatur Zoning Ordinance.

Said affidavit of approval shall be mailed to the applicant. Said approval shall not be effective unless and until said affidavit of approval is recorded in the Macon County Recorder of Deeds office, in the chain of title for each affected zoning lot. The owner of the combined lots shall be responsible for recording said affidavit of approval.

- c. No zoning lot resulting from a combination of lots under this section shall hereafter be divided into two (2) or more zoning lots and no portion of any improved zoning lot shall be sold, unless each of the following requirements are met:
  - i. All zoning lots resulting from each such division or sale shall conform with all minimum standards for lot area and dimensions for the zoning district in question.
  - ii. The division or sale does not create or increase any nonconformity regarding maximum building bulk, minimum open space, or minimum required yards for the zoning district in question.
  - iii. The division or sale does not create any lots in violation of the requirements of the City of Decatur Subdivision Ordinance.

iv. The Zoning Administrator consents to said sale or division in a written release of the restriction set forth in the affidavit referenced in the preceding paragraph.

d. Failure to comply with the provisions of this section shall be a violation punishable under Section XXXVI of this Ordinance.

13.14. Uses not catalogued; Similar uses.