



# PLANNING COMMISSION MINUTES

CITY OF NOVI

Regular Meeting

**February 9, 2022 7:00 PM**

Council Chambers | Novi Civic Center

45175 W. Ten Mile (248) 347-0475

## CALL TO ORDER

The meeting was called to order at 7:00 PM.

## ROLL CALL

Present: Member Becker, Member Dismondy, Member Lynch, Chair Pehrson, Member Roney, Member Verma

Absent Excused: Member Avdoulos

Staff: Barbara McBeth, City Planner; Beth Saarela, City Attorney; Christian Carroll, Planner; Ben Peacock, Planning Assistant

## PLEDGE OF ALLEGIANCE.

Member Becker led the meeting attendees in the recitation of the Pledge of Allegiance.

## APPROVAL OF AGENDA

Moved by Member Lynch and seconded by Member Becker.

## VOICE VOTE TO APPROVE THE FEBRUARY 9, 2022 PLANNING COMMISSION AGENDA MOVED BY MEMBER LYNCH AND SECONDED BY MEMBER BECKER.

**Motion to approve the February 9, 2022 Planning Commission Agenda. Motion carried 6-0.**

## AUDIENCE PARTICIPATION

Nobody wished to speak during the first audience participation.

## CORRESPONDENCE

There was not any correspondence.

## COMMITTEE REPORTS

There were not any committee reports.

## CITY PLANNER REPORT

City Planner McBeth had nothing to report.

## CONSENT AGENDA – REMOVALS AND APPROVALS

There were not any consent agenda items.

## **PUBLIC HEARINGS**

### **1. LITTLE GEMS OF NOVI GROUP DAYCARE HOME JSP21-48**

Public hearing at the request of Little Gems Novi for Special Land Use approval. The subject property contains 0.24 acres and is located in Section 26, west of Meadowbrook Road, south of Ten Mile Road. The site is part of the Orchard Hills West Subdivision. The applicants would like to operate a Montessori based group daycare in their existing residence for no more than twelve children, which is a Special Land Use in the R-4 Zoning District. The applicants have run a daycare with up to 6 children for several years at this location.

Planner Carroll said before you tonight is Little Gems of Novi Group Daycare Home. The 0.24-acre site is located at 41959 Aspen Drive and is part of the Orchard Hills West Subdivision. The site is west of Meadowbrook Road and is south of Ten Mile Road. The surrounding area is zoned R-4: One-Family Residential and the Future Land Use map indicates Single Family for the property and the surrounding area. The subject property and surrounding area do not contain any regulated wetlands or woodlands. The applicant is currently operating a group daycare home at the primary residence with six children. She would like to expand the group daycare home for up to twelve children, which is why she is here today. A daycare in a residential district for up to twelve children requires a Special Land Use Permit and is subject to some additional conditions within the zoning ordinance.

Planner Carroll continued to say as noted in the planning review letter and motion sheet, the proposed use does not meet three use standards that are required for a group daycare home in a private residence. Deviations from these standards would require approval from the Zoning Board of Appeals. The first requirement that it does not meet is the minimum lot size requirement. A minimum of 0.5 acres is required and the site is approximately 0.24 acres; for context, this is about the typical size for an R-4 zoned property. The second requirement that it does not meet the requirement for secure fencing and screening from any adjoining lot in any residential district with appropriate fence and landscape materials. The applicant has indicated that the HOA does not allow fencing within the subdivision, and, if approved, additional landscape screening would be provided. The fencing and screening requirement is typically a height of 4 feet. The third and final requirement that it does not meet is the requirement to abut a major thoroughfare. The site is currently tucked away in a subdivision and does not abut Meadowbrook Road or Ten Mile Road, the nearest adjacent thoroughfares. The applicant has indicated that the drop-off time for vehicles will be segmented so that no more than three vehicles are parked in the driveway at the same time. The applicant has also provided a traffic plan indicating that three different routes could be used to approach the site from either Meadowbrook Road or 10 Mile Road. However, staff still has some concerns about the efficiency and enforcement of the parking and drop-off strategy.

Planner Carroll concluded by saying staff is not recommending approval of the Special Land Use due to the concerns noted and the items listed in the recommended motion. The Planning Commission is asked tonight to hold the public hearing and approve or deny the Special Land Use Request. Representing the project tonight are Sandeep and Harbind Chahal. Staff is available to answer any questions.

Harbind Chahal, one of the two applicants, said my wife and owner of the business, Sandeep, has lost her voice and is not able to speak tonight. She has run her day care for seven years, and her wait list has never been as long as it is now. There clearly is a need for homecare providers now that people are returning to work. The restrictions that are preventing us from expanding the daycare to 12 children are not the same all over the country or even in the state of Michigan. In fact, if our home were a couple miles over in Farmington Hills, we would be

allowed to expand to 12 children. The state does not have an issue with our expansion. The inspectors from the state came out already and said that they were ready to issue approval. We only need approval from the city now. I understand that these scenarios are decided on a case-by-case basis. However, I firmly believe that my wife's business makes a very strong case for expansion, especially considering other daycare businesses, like Giggle Gang, have been granted permission to operate under similar circumstances in Novi. This pandemic is certainly not over, and there is still a dire need for homecare providers. If there was ever a time to consider this, it is now. Some of the parents have two children, and they don't want to start sending their children to two different places due to risk of further exposure to COVID. One set of parents is expecting a baby soon, and they are asking us to make arrangements for their child. Our number one priority is safety. We have a fenced in area in the backyard. I believe that the quality of the care will not change with the addition of more children.

Chair Pehrson turned it over to Member Lynch to read the correspondence received on this item.

Member Lynch said the first is an objection from Ge Song Li, 44983 Aspen Drive – noise and traffic concerns. Stacey Snow, 41886 Aspen Drive, is concerned with traffic. We have a response in support from the applicant. Then there is an objection from John Pflaum, 41911 Aspen Drive, in the form of a typed letter; it is primarily concerned about the traffic and nearby school. We have one final objection from Tim Pysher, 41936 Borchart Drive, is concerned about the CC and Rs – the Codes, Covenants, and Restrictions – with a business being located in an HOA.

Chair Pehrson invited members of the audience who wished to participate in the public hearing to approach the podium.

Kristina McKone, 41960 Borchart Drive, said I live directly behind Sandeep and Harbind in Orchard Hills West. I would like to preface this by saying that Sandeep and Harbind are friendly neighbors, and we've enjoyed them and their family since we purchased our home. We know that Sandeep is clearly well-loved by the children of the families in the daycare. However, given the constraints of our neighborhood, I am not in support of the expansion for several reasons. The first is that our lots are small. As a relatively new neighborhood, we do not have many large trees to mitigate sound or create privacy. Since we are talking about small children, they are going to be loud expressing their frustration and so on, particularly in the summer months. An additional concern involves the inability to fence yards. Kids are curious, and while supervised during the day, there are times, like at pickup, when they might wander over into other yards. I also grill a lot in the summertime, so safety around that concerns me a bit as well. Finally, I'm concerned about the crosswalk to Orchard Hills Elementary. It is in an area likely impacted by increased traffic with more children attending the daycare. Again, I really respect and enjoy my neighbors and appreciate their contribution. I understand the great need for daycare, but I'm not sure this is the place for it.

Tim Pysher, 41936 Borchart Drive, said I used to be on the Board of this HOA as an officer, and this is a document called Covenants and Restrictions – this is page 9. In this portion of the document, the second to last sentence says that a parcel or residency shall not be permitted to have a business. Everyone in the HOA signed off on that. I moved in the neighborhood in December of 2008, and then 2 years ago we suddenly have a business. I didn't know it was opening, and we did not have a chance to vote on it from our HOA. We heard it through opening our windows during the summertime in the afternoons. We first thought it was a party, but it was the daycare. The noise carries on through the spring and summer months. I believe the applicant has requested operating hours from 6:00 am to 7:00 or 8:00 pm, which is basically all day. I would also like to mention the fencing. The applicant's lot has a walkout basement with an overhead deck and a cement pad underneath the deck. They have put a picket fence around the cement pad, but your ordinance calls for an opaque fence with materials that

blend into the aesthetics of the existing residencies, constructions, and materials. This is a picket fence about 3 and a half feet tall. It isn't opaque or sound dampening, and it offers no protection. The applicant's submission said that area is approximately 600 square feet. The requirement for an outdoor playground area for a day care is 2,000 square feet, so they are very far below that requirement. I agree with Kristina: the applicants are very good people and neighbors. However, they live in a lot that is approximately .2382 acres, and the city requires half an acre for this type of use. Therefore, they have too small of a lot, inadequate fencing, and the location is also poor because it must abut to a major thoroughfare. Each thoroughfare, which would be 10 Mile Road or Meadowbrook Road, is approximately a half mile away, so this lot does not meet that requirement either. Orchard Hills Elementary School has a pathway that comes from Aspen Drive, and it is a quick walk – this tends to produce a buildup of traffic.

William Claypool, 41935 Aspen Drive, said I live next door to the Chahal family. My neighbors are good people, and we have experienced them operating the daycare over the last couple of years. There didn't seem to be any problems in my opinion, even with the noise. I like kids, so I don't mind hearing playing and laughing. Also, when I was contacted by them regarding the fencing – and I don't know if it is mandatory for fencing for this expansion – I was reminded that our HOA bylaws do not allow that. No fencing around the outer perimeter of the lot is allowed. They were allowed to put up the picket fence around the patio area because the HOA bylaws did not specifically restrict that. I am not particularly against it, but I will leave that decision to you.

Shirley Kest, 31004 Tanglewood Drive, said although this isn't my neighborhood, I am speaking for those who can't be here tonight, specifically people who work the night shift. I have a brother that works from 11:00 pm to 7:00am, and he sleeps when he gets back from work at 7:00am. I appreciate the hard work of families like this who are trying to make a living, but we need to consider the residents in the neighborhood who cannot speak tonight because they are getting ready to go to work.

Seeing that nobody else wished to speak, Chair Pehrson closed the public hearing and turned it over to the Planning Commission for consideration.

Member Lynch said there was a comparison made between an approval that was made in 2009 and what is proposed tonight, but it is not an apples-to-apples comparison. I would like to first thank the applicant for coming, you certainly have a right to do that, and I appreciate you doing it. These types of special use projects rarely get approved; there must be extenuating circumstances and a recommendation by the Planning Department before it can receive approval. In 2009, we received a recommendation from the Planning Department for a property and use that was somewhat similar to what is before us tonight. The difference was that the lot size of that property was about 40 percent larger than the property being discussed. The lot also abutted 10 Mile, a major thoroughfare, so they met that requirement. The applicants in 2009 stated that they would only be operating 3 days per week, and they were only trying to increase from the 6 children to 8 or 9. I think this was to accommodate a couple of siblings. The other thing is that, in the 2009 case, the applicants had overwhelming support from the neighborhood. That neighborhood also did not have the same code, covenants, and restrictions as this neighborhood does. In Novi, we typically have it laid out where there is a residential area and then a transition area before getting to an area zoned for businesses. We need to be very cautious allowing a business to operate in a residential district because we don't want to set a poor precedent. Even though it is a daycare this time, what is to stop someone from proposing a car painting business out their garage under similar reasoning? My concern with this particular project is that you are in violation of your HOA code, and you do not have the overwhelming support of your neighbors. The applicant claims that they received approval from the HOA, but the document we were given does not grant approval – it is just a letter stating that the applicant would like to operate the business. Therefore, from my position,

I cannot approve this, and I would like my fellow Commissioners to know the difference in circumstance between this proposal and the proposal in 2009.

Member Becker asked the applicant do you currently employ anyone who works at your house who does not live there full time?

Mr. Chahal replied that they did not.

Member Becker then asked if you were to expand to 10 to 12 children at one time, would you need to add one or more employees to assist you?

Mr. Chahal said maybe two; one would be full time and the other would maybe be part time.

Member Becker went on to ask if this proposal were to be approved, would you be adding permanent playground equipment in the backyard?

Mr. Chahal said we would do whatever the licensing authority allows; if that is something temporary, then we would do that. We'd have at least some kind of portable equipment for children to play with outside.

Member Becker concluded his questioning for the applicant by asking do you currently use your backyard beyond the patio for children to play outside?

Mr. Chahal said most if not all the time they play within the fence. Sometimes they go beyond the fence under supervision; we will put out a sprinkler for the kids to play in when it is warm out. Also, just to mention, there was a daycare across the street from that is now closed, but there would not be any more traffic than was there when they were open.

Member Becker then asked the staff if this applicant or anybody else wanted to open a home daycare business, 6 children or less, are they required to get any approval from the city to operate?

Planner Carroll replied no, that is permitted use by right under the Michigan Zoning Enabling Act, so we don't review those requests.

Member Becker said for a group daycare business, our ordinance requires fencing and opaque screening around the required outdoor recreation area. Planner Carroll mentioned that the minimum height to qualify for screening was 4.5 feet. Would we consider the applicants' proposal of hedges to fulfill the requirement for opaque screening?

Planner Carroll said after speaking with our Landscape Architect, he mentioned 80 to 90 percent opaqueness, so it would have to be pretty dense to provide sufficient screening. That is in section 5.5 of the zoning ordinance.

Member Becker asked they would have to be installed at that 80 to 90 percent opaqueness, correct? We couldn't wait for them to grow to reach that requirement.

Planner Carroll said that is correct. They would have to start at the minimum level.

Member Becker said if there are employees that are working there, are there any concerns from staff about employees parking on the street for 6 to 8 hours per day?

Planner Carroll said there is a no-parking sign before the residence. I believe they can park on the street after that, as long as there is not a restriction in the HOA bylaws.

City Attorney Saarela asked if these were public streets and had been dedicated to the public and were accepted.

Planner Carroll confirmed that the streets are public.

City Attorney Saarela said unless there is a traffic control order restricting parking, anybody in the public can park there.

Member Becker then said the applicants' request is to operate a Montessori-based group day care business using their primary residence. If the city were to approve this request, would there be any legal requirement of the applicant or any subsequent property owner of this property to operate a Montessori-base business as opposed to a licensed daycare facility not associated with Montessori?

City Attorney Saarela said when there is a condition on a property land use approval, it should relate to any negative impacts created by the special land use. The type of education or care provided probably would not negate any of the other concerns here, like traffic or noise. If it did negate those conditions somehow, then it would be a potential condition.

Member Becker said my concern is that what we decide to allow may go against the HOA rules. If we tell the applicant they must have a fence for this to be allowed, by the HOA regulations don't allow a fence, which set of regulations trumps the other?

City Attorney Saarela said they are two different issues. Ordinances are used by the city to regulate property, so those will apply regardless of what the private land use restrictions say. However, if there is a more restrictive land use restriction in their covenants, they have a right to enforce that. The city doesn't have a right to enforce that, but the HOA would have the right to take that issue to court to enforce the private restrictions. Even though they could not change what the city allows, the HOA could take it further to court to stop it that way.

Member Dismondy said to me, unfortunately, it is clear that this proposal would yield a noisy and unsecure product. I don't like denying people who are looking to make a positive impact in their world, but this seems like an overall detriment to the neighborhood.

Member Roney said this actually became a larger challenge than I realized coming in this evening. I thought perhaps we could find a way to make this work, but that was because I had not seen any objections. I thought that if the business was working, we could make it work further. Hearing what I have tonight, and with the background from Member Lynch, I don't see any way to approve this.

Member Verma said there is no fence now for 6 children, but for 12 children they will need a fence. Why is there not a requirement for fencing for 6 children?

Planner Carroll said for 6 children, it is whatever the state would require through the Zoning Enabling Act when they review the license for the daycare. The city doesn't have a use standard section for anything under 6 children. The 6 to 12 children capacity when the special land use requirement kicks in, and the other requirements are added on.

Member Verma said I am a little concerned because there is no fence, and the shrubbery will take years to reach the required 4-foot height. Normally, there is a chain link fence in the yards of Montessori-based daycares and others that I have seen.

Chair Pehrson said we look at this based on the ordinances that are particular to the section of

the city a given project would exist in. What we're basing our judgement on tonight is associated with the special land use permit. All other things being equal – parking, noise, etcetera – they are all understandable things relative to how you may feel about this proposal. However, we must look at this based on the ordinances placed in front of us that the city has adopted over years. Inside the special land use permit regulations, the ordinance calls out that we must make the judgement relative to the compatibility of this use to the adjacent area. The lack of secure fencing, lot size under the minimum requirement, and the lot not abutting a major thoroughfare are all items that we must base our decision on. While I appreciate the applicants coming forward tonight, they do not meet the standards set for a special land use permit, and I cannot objectively support this.

Motion made by Member Lynch and seconded by Member Roney

**In the matter of Little Gems of Novi Group Daycare Home, JSP21-48, motion to deny the Special Land Use permit because the site does not comply with the following ordinance standards, which are qualifying conditions:**

- a. **Relative to other feasible uses of the site:**
  - i. **The proposed use is not compatible with adjacent uses of land in terms of location, size, character, and impact on adjacent property or the surrounding neighborhood, because the proposed use lacks the proper site acreage, site screening, and access; and**
- b. **Lack of secure fencing and screening in the backyard as required by Section 4.12.A.i of the Zoning Ordinance; and**
- c. **The subject site is only 0.24 acres, which is below the minimum requirement as required by Section 4.12.A.ii of the Zoning Ordinance; and**
- d. **The subject site does not abut a major thoroughfare as required by Section 4.12.A.vii of the Zoning Ordinance.**

**ROLL CALL VOTE TO DENY THE SPECIAL LAND USE FOR JSP21-48 LITTLE GEMS OF NOVI GROUP DAYCARE HOME MOVED BY MEMBER LYNCH AND SECONDED BY MEMBER RONEY.**

**Motion to deny the Special Land Use for JSP20-27 Griffin Novi to City Council. Motion carried 6-0.**

## **MATTERS FOR CONSIDERATION**

### **1. INTRODUCTION TO TEXT AMENDMENT - SELF-STORAGE FACILITIES**

Introduction of Text Amendment 18.299 to update Section 4.51, Self-Storage Facilities, to allow for climate-controlled multi-story self-storage facilities throughout the City of Novi as a special land use in the I-1 Light Industrial, Zoning District, and as permitted by right in the I-2 General Industrial, Zoning District.

Planner Carroll said before you tonight is a proposed text amendment to Section 4.51 of the Zoning Ordinance, which regulates the use standards for Self-Storage Facilities. The applicant is GHK Development, who is looking to potentially develop a self-storage facility on the current Novi Bowl site. Self-Storage facilities are permitted by right in the I-2 General Industrial district and as a special land use in the I-1 Light Industrial district. The applicant could not be here tonight, but he sends his regards. Over the past few years, the City has seen increased interest in climate controlled multi-story self-storage facilities from multiple parties. The current self-storage ordinance does not allow for multi-story climate-controlled buildings, so the proposed project would not be feasible without an amendment to the ordinance. The current ordinance standards are more directly related to traditional self-storage use of single-story, fenced-in lots with an office. The applicant has submitted two proposed text amendments, listed as option #1 and option #2 in your packet, and there is a third staff option as well that provides some additional standards. The first option provided by the applicant splits the ordinance into two

sections. The first section would stay the same, maintaining the traditional self-storage facility regulations, and a second section would be added as provisions for climate-controlled facilities. The second applicant-provided option has everything listed under the same section with some additional text changes. The staff option takes a similar route as the first applicant-provided option, but it adds some provisions based on conditions of some surrounding communities. Some of the items to note are the building setbacks would be consistent with the zoning district, there would be some additional screening requirements, the lot size is reduced a bit, there would be an allowance of additional building height, and there would be an allowance of facilities near residential areas if they meet certain conditions as listed within the draft amendment. The Planning Commission is asked tonight to provide direction to staff on this request and to consider setting a Public Hearing for an upcoming meeting. Staff is available to answer any questions.

Member Dismondy said in my career, I do commercial real estate finance, and this asset class is one of the easier things to finance now. You'll probably start seeing a lot of these pop up in the metro Detroit area and around the country. It's interesting because it is progressive. This is the next step for climate-controlled storage. Additionally, we are going to start seeing big box retail buildings that lost a tenant being retrofitted by storage companies. I don't know if we'd like to consider that as a part of this amendment, or if we would rather focus on the amendment as it pertains to this particular developer.

Member Lynch said that is a good point – why not get it all done at once? I'm happy with the draft recommended by the staff, but Commissioner Dismondy brings up a good idea. We're going to have to address this sooner or later, and we know that reuse is going to become necessary in certain areas. If the staff would be open to it, I'd like to see Commissioner Dismondy's recommendation considered.

City Planner McBeth said that is an interesting idea, though we haven't looked into it at all. Our recommendation is somewhat tagging onto the applicant's request, and they are eager to take the next steps following a decision on the amendment. I wonder if we should consider this idea as we move forward with the Master Plan and as we think about what to do with our aging malls and other locations.

Member Lynch said I just don't want this to fall off the table, considering everything that is going on in the market right now.

Member Becker said does the owner of the proposed development also own the self-storage that is immediately to the south of Novi Bowl?

Planner Carroll said that it is a different company.

Member Becker asked because I don't know, and not because I'm challenging it, is there a reason why we are suggesting language that establishes a minimum acreage of 5 acres for single story buildings but a minimum of 3 acres for multistory buildings?

Planner Carroll said 5 acres is the current requirement, so that was left in for traditional units. The 3-acre requirement was based on research of other communities and their requirement for lot size for these types of facilities.

Member Becker asked is there a need for the suggested ordinance text to address what is required for a development that includes both single and multi-story temperature-controlled buildings? It seems like we are treating them as if it will be one or the other. Will this apply for a developer who wants to do both?



Planner Carroll said I know that both are covered either way. That is a good question, though, and it is something we can look into.

Member Becker said we mention climate control storage as if it were only feasible in a multistory building. Could this become an issue if an applicant comes to us with a proposal for a single-story building, which set of requirements are applicable?

Planner Carroll said that is something else that staff will have to investigate.

Member Roney said the suggestion is to schedule a public hearing. The public hearing would be on the storage unit amendment overall. It wouldn't be on the property itself, correct?

City Planner McBeth confirmed that Member Roney's statement was correct.

Member Verma asked are they going to demolish the Novi Bowl building to construct their own building?

Planner Carroll said if I'm not mistaken, a portion of it is supposed to be renovated.

City Planner McBeth said we have seen a couple of plans for that, but unfortunately the applicant is not here tonight to answer that. We will have information on whether it is partial renovation or a completely new building for the public hearing.

Motion made by Member Lynch and seconded by Member Verma.

**ROLL CALL VOTE TO SET A PUBLIC HEARING FOR TEXT AMENDMENT 18.299 FOR A FUTURE PLANNING COMMISSION MEETING MOVED BY MEMBER LYNCH AND SECONDED BY MEMBER VERMA.**

***Motion to set a public hearing for Text Amendment 18.299 for a future Planning Commission meeting. Motion carried 6-0.***

**CONSENT AGENDA REMOVALS FOR COMMISSION ACTION**

There were not any consent agenda items.

**SUPPLEMENTAL ISSUES/TRAINING UPDATES**

City Planner McBeth said just a reminder, we have that joint training between the Zoning Board of Appeals and the Planning Commission on March 2 in the evening. The two groups will meet at the beginning, and then they will split up to discuss items specific to each group.

**AUDIENCE PARTICIPATION**

Nobody wished to speak during the final audience participation.

**ADJOURNMENT**

Motion made by member Lynch.

**VOICE VOTE TO ADJOURN THE FEBRUARY 9, 2022 PLANNING COMMISSION MEETING MOVED BY MEMBER LYNCH.**

***Motion to adjourn the February 9, 2022 Planning Commission meeting. Motion carried 6-0.***

The meeting adjourned at 7:49 PM.