

MEMORANDUM



TO: VICTOR CARDENAS, CITY MANAGER
FROM: JAMES HILL, PLANNER
THROUGH: BARBARA MCBETH, AICP, CITY PLANNER
SUBJECT: TEXT AMENDMENTS 18.303 AND 18.304
DATE: NOVEMBER 28, 2023

On November 15, 2023, the Planning Commission held two public hearings for two text amendments to the City of Novi's Zoning Ordinance. Text amendments are either initiated by the City or requested by a resident, business-owner, or other entity in the City. Amendments are often contemplated to update the language within the Ordinance to better match present needs and conditions, or to address issues that may not be covered by current language. In the past, text amendments have been adopted that update standards for self-storage units, remove unused zoning districts, or modify allowable building heights, among other reasons.

The text amendments that went before the Planning Commission on November 15 involved two separate issues – expanding nonconformities and limitations on home occupations. Both text amendments are city-initiated and were first introduced to the Planning Commission on September 27. Following the public hearings, the Planning Commission recommended approval of both amendments as drafted. The two ordinance amendments will be scheduled for an upcoming City Council meeting for consideration of approval at a first reading.

Expanding Nonconformities

Text Amendment 18.303 is a result of staff working with a property owner who would like to improve and expand a residential home that is considered a nonconforming use in the Light Industrial district. The Zoning Ordinance currently does not permit nonconforming uses to expand their building footprint. Section 7.1, titled Nonconformities, explains that the intent of the Ordinance is for such uses to, eventually, no longer exist and for permitted uses to take their place. However, after a couple of cases where a longstanding use is nonconforming due to a change in the zoning, staff thought it would make sense to look into a way to provide greater flexibility to nonconforming uses wishing to expand.

Staff worked with the City Attorney in researching other Michigan communities to see how they've handled the expansion of nonconforming uses. These uses are mostly nonconforming for a reason, and it's important that any expansion of an existing legal nonconforming use doesn't have a detrimental impact on the surrounding area. The proposed text amendment firstly acknowledges that in most cases it is the intent of the Ordinance to not encourage the survival of nonconforming uses, but adds that it could make sense in some circumstances. Then, it provides the option for expanding a nonconforming use through a Special Land Use to be considered and potentially approved by Planning Commission after a public hearing.

In addition to the conditions that must be met for Special Land Use approval, an applicant with a nonconforming use wishing to expand must also meet several other criteria that the Planning Commission has discretion over. Those factors include meeting the height, setback, and other applicable requirements for the existing zoning district, not increasing negative impacts in traffic, noise, odor, vibrations, and other possible impacts, and limiting the total amount of expanded floor space to 50% of the existing floor area.

At the public hearing in front of the Planning Commission on November 15, the Planning Commission recommended approval of the text amendment, 5-0. There was one audience member who spoke, and he was in favor of the change to the Ordinance. The Planning Commission's packet and draft meeting minutes are attached to this memo.

Home Occupations

Text Amendment 18.304 was drafted at the request of the City Council and is also in response to a number of complaints from residents or issues that Ordinance officers observed in residential zoning districts related to home occupations. Draft ordinance language had been reviewed previously by the members of the Council's Ordinance Review Committee. The minutes of those meetings are attached to this memo.

Currently, the Zoning Ordinance has language that limits home occupations and their effect on neighbors and the surrounding community. The current language prohibits signage or advertising, limits the home occupation to the main building, discourages the practice of customers coming to the home to shop for products, and prohibits any objectionable noise, fumes, odor, dust, or electrical interference.

The new language identifies specific home occupations that are prohibited and provides additional language pertaining to traffic and deliveries to the home. The text amendment prohibits outside storage of products, supplies, or equipment, clarifies that the home occupation must be conducted by a full-time resident, prohibits the sale, repair, storage, or rental of vehicles, landscape equipment or machinery, and limits the number of customers served at one time to four and limits employees to no more than two.

At the public hearing in front of the Planning Commission on November 15, the Planning Commission recommended approval of the text amendment, 5-0. There was no audience participation. The Planning Commission packet and meeting minutes are attached for reference.

PLANNING COMMISSION DRAFT MINUTES FROM NOVEMBER 15



PLANNING COMMISSION MINUTES

CITY OF NOVI
Regular Meeting

November 15, 2023 7:00 PM

Council Chambers | Novi Civic Center
45175 Ten Mile Road, Novi, MI 48375 (248) 347-0475

CALL TO ORDER

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

ROLL CALL

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

Absent Excused: Member Avdoulos, Member Dismody

Staff: Barb McBeth, City Planner; Beth Saarela, City Attorney; James Hill, Planner; Rick Meader, Landscape Architect; Adam Yako, Plan Review Engineer

PLEDGE OF ALLEGIANCE

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

APPROVAL OF AGENDA

Motion made by Member Lynch and seconded by Member Becker to approve the November 15, 2023 Planning Commission Agenda.

VOICE VOTE ON MOTION TO APPROVE THE NOVEMBER 15, 2023 PLANNING COMMISSION AGENDA MOVED BY MEMBER LYNCH AND SECONDED BY MEMBER BECKER.

Motion carried 5-0.

AUDIENCE PARTICIPATION

Chair Pehrson invited members of the audience who wished to address the Planning Commission during the first audience participation to come forward. Seeing no one, Chair Pehrson closed the first public participation.

CORRESPONDENCE

There was not any correspondence.

COMMITTEE REPORTS

There were no Committee Reports.

CITY PLANNER REPORT

City Planner Barb McBeth introduced new Planner Heather Ziegler. Heather has her Bachelor's degree in Natural Resource Management and a Masters Degree in Urban and Regional Planning from Michigan State University.

CONSENT AGENDA - REMOVALS AND APPROVALS

1. OAK POINTE CHURCH ADDITION AND PATIO JSP23-21

Approval of the request of Oak Pointe Church JSP23-21, Preliminary Site Plan for a building addition for a children's play area totaling approximately 1,000 square feet, and a patio addition. The subject parcel is in Section 20 of the city, east of Napier Road, west of Wixom Road, and north of Ten Mile Road. The property is zoned RA, Residential Acreage and the initial multiple phase site plan for the property was approved in 2001.

Motion to approve JSP23-21 Oak Pointe Church Addition and Patio Preliminary Site Plan made by Member Lynch and seconded by Member Becker.

In the matter of JSP23-21 Oak Pointe Church Addition and Patio, motion to approve the Preliminary Site Plan.

ROLL CALL VOTE TO APPROVE JSP23-21 OAK POINTE CHURCH ADDITION AND PATIO PRELIMINARY SITE PLAN MOVED BY MEMBER LYNCH AND SECONDED BY MEMBER VERMA.

Motion carried 5-0.

PUBLIC HEARINGS

1. TEXT AMENDMENT 18.303

Public hearing of the staff-initiated request for Planning Commission's recommendation to the City Council regarding Text Amendment 18.303 to provide the option to expand nonconforming uses under special circumstances, subject to Special Land Use consideration by the Planning Commission.

Planner James Hill relayed that the text amendment addressing nonconformities was introduced to the Planning Commission on September 27th. The text amendment provides the option to expand nonconforming uses under certain circumstances, subject to Special Land Use consideration by the Planning Commission. Currently, a use that is considered legal nonconforming cannot expand its floor area at all without a use variance from the Zoning Board of Appeals. This text amendment aims to provide greater flexibility to some residents or business owners who find their buildings to be legal nonconforming uses yet wish to expand or renovate their building footprint.

The text amendment will allow for the expansion of nonconformities as a Special Land Use permitted by the Planning Commission and includes additional factors that the Commission must consider when making such a decision. It is meant to help longstanding property and business owners in the City who may wish to make repairs, to restore, reconstruct, or extend their nonconforming use.

Factors that must be considered include the extension of the nonconforming use meeting current building and site standards of the existing zoning district, limiting the amount that the use can expand, and preventing undue hardship on nearby property owners through the effect of traffic, noise, odor, and vibration levels, and the potential for future development. These factors need to be considered in addition to the regular Special Land Use considerations that already exist within the Zoning Ordinance, including the impact on utilities and public services, compatibility with adjacent uses, and consistency with the goals and intent of the Master Plan.

The Planning Commission is asked to hold the public hearing tonight for Text Amendment 18.303 and make a recommendation to City Council for approval or denial of the text amendment. Staff is available to answer any questions.

Chair Pehrson opened the Public Hearing and invited members of the audience who wished to participate to approach the podium.

Mike Duchesneau, 1191 South Lake Drive, relayed he totally supports the text amendment and is aware of at least three cases where someone could have used help through this process.

Seeing no one else, Chair Pehrson confirmed that there was no correspondence, closed the Public Hearing, and turned the matter over to the Planning Commission for consideration.

Member Lynch relayed his understanding is this started with someone who had a residence in an industrial zone and wanted to put up a pole barn. There were a lot of hurdles that they had to jump through. Some of the adjacent neighbors in industrial districts were worried that they were going to have an additional burden placed on them if residential expansion was allowed.

Based on the overview just presented by Planner Hill, the adjacent property owners who bought their property as Industrial can still use it as industrial and won't have an additional burden that we place on industrial sites next to residential. This basically removes some unintended consequences of our existing ordinance to allow somebody to in this case put up a pole barn in a residential area and not affect anybody. Member Lynch does not have an issue with the text amendment.

Member Becker inquired to staff, in looking at the annotated draft on page two, that Special Land Use will be the process to allow an existing non-conforming to change the footprint and do some expansion rather than other types of mechanisms. Planner Hill confirmed this is correct.

Member Verma had no comments.

Member Roney inquired, in reference to what Member Lynch relayed, that this amendment also will benefit the Gatsby property. Planner Hill confirmed this is correct. Member Roney is in support.

Chair Pehrson inquired, in reference to the second paragraph, would the amendment include a change of use of the venue or the installation as opposed to any kind of expansion. For example, if nothing is being changed relative to the building footprint, but if the use changes drastically from A-Z, is there any recourse in the wording for that to take place.

City Planner McBeth responded that this amendment was not intended for that, rather it was intended for uses that are currently existing and non-conforming and takes away the strict restriction that those uses cannot be expanded. It wasn't intended to allow other uses to make themselves non-conforming.

Chair Pehrson inquired regarding allowed repairs and maintenance without making physical changes, would that also include painting. For example, going from red to blue.

City Planner McBeth responded that typically the painting or maintenance of a building is permitted, whether it's an existing non-conforming use or not. Sometimes if it's a commercial building we'd be concerned about the color, so it might trigger the facade ordinance and we'll take a look at that to see.

Motion to recommend Text Amendment 18.303 for approval to City Council made by Member Lynch and seconded by Member Roney.

In the matter of Text Amendment 18.303 motion to recommend approval of the text amendment to City Council.

ROLL CALL VOTE TO RECOMMEND APPROVAL OF TEXT AMENDMENT 18.303 MOVED BY MEMBER LYNCH AND SECONDED BY MEMBER RONEY.

Motion carried 5-0.

2. TEXT AMENDMENT 18.304

Public hearing of the staff-initiated request for Planning Commission's recommendation to the City Council regarding Text Amendment 18.304 to update and clarify language pertaining to home occupations in the City.

Planner Hill relayed the second text amendment involves a change in the ordinance concerning home occupations in the City. City Council requested the Ordinance Review Committee to explore potential changes after a number of complaints concerning certain home occupations. This text amendment was also introduced to the Planning Commission on September 27th.

The text amendment seeks to prevent unwanted nuisances caused by some home occupations. It prohibits outside storage of goods or products, the sale or storage of automobiles, trucks, recreational vehicles, and other similar items, traffic greater than normally expected in a residential neighborhood, and deliveries via large trucks other than Amazon, UPS, etc. These changes are in response to complaints and what has been noted by Ordinance officers.

The Planning Commission is asked to hold the public hearing for Text Amendment 18.304 and make a recommendation to City Council for approval or denial of the text amendment. Staff is available to answer any questions you may have.

Chair Pehrson opened the Public Hearing and invited members of the audience who wished to participate to approach the podium. Seeing no one, Chair Pehrson confirmed that there was no correspondence, closed the Public Hearing, and turned the matter over to the Planning Commission for consideration.

Member Lynch relayed he is glad that this amendment is being presented and will trust Staff with the proper verbiage. With more people having home businesses, we need to put some boundaries around how it affects the adjacent neighbors, and this accomplished that. Member Lynch does not have an issue with it.

Member Becker inquired to staff if this particular ordinance and the changes being considering would apply to things like in home childcare. Planner Hill responded that there are separate stipulations in the Ordinance for at home childcare.

Member Becker clarified his understanding that what qualifies as an occupation in a residence is where goods or services money is exchanged. Planner Hill confirmed this is correct.

Member Becker relayed when he was reading about no more than four customers or clients he wondered if it was childcare, who would be the client - the one person that drops off five children or the five children? Now understanding that is a whole different ordinance, he has no further questions.

Member Verma had no questions.

Member Roney had no questions.

Chair Pehrson relayed as he reads the amendment, it seems to be heavily weighted toward motor vehicle repair or storage. Does the amendment consider looking into the future, as far as home businesses and things that are allowed to be done now in the home? It seems to be narrow in scope toward such businesses as mechanics and repairs. Does it need to be expanded to include anything else? For example, a woodworking shop in a garage where noise would have to be limited for the neighbors.

To address Chair Pehrson's concern whether the amendment is too limited in scope, City Planner McBeth responded it is actually fairly broad. Some of the new words that are added were to address specific problems that have been identified and clearly call that out. Sometimes a broad ordinance referencing home occupations where employees are coming to a home to work, or customers are coming for stock and trade sales, can be interpreted in different ways resulting in disagreement about what the Ordinance means. In terms of the automotive repair and sale, and things like that, is a specific situation.

Chair Pehrson inquired relative to the enforcement of the four people in the business and such, how this would be enforced.

City Planner McBeth responded that is kind of the art and science of the Ordinance officers. They need to observe something that's in violation of the Ordinance. For example, they might get a complaint from the neighbor, but then our Ordinance officers must also be able to observe it themselves.

Member Becker added that what he really liked was the clarification in item number 4 referencing the keeping of a stock and trade and no article shall be sold or offered for sale from the home to customers or visitors to the home. Articles made in the home by the inhabitants therefore may be delivered to the resident or to markets off premises, so people aren't selling items out of their garage. Member Becker likes the narrowing that they could sell it, perhaps online, but then they have to get it to the customers, no one would be driving up and picking up items.

Motion to recommend Text Amendment 18.304 for approval to City Council made by Member Lynch and seconded by Member Becker.

In the matter of Text Amendment 18.304 motion to recommend approval of the text amendment to City Council.

ROLL CALL VOTE TO RECOMMEND APPROVAL OF TEXT AMENDMENT 18.304 MOVED BY MEMBER LYNCH AND SECONDED BY MEMBER BECKER.

Motion carried 5-0.

MATTERS FOR CONSIDERATION

1. AUDI SERVICE CENTER JSP23-40

Consideration of Audi Service Center for Preliminary Site Plan and Stormwater Management Plan approval. The subject property contains 8.15 acres and is located in Section 24 of the City. The subject building is located behind the proposed Porsche building. The applicant is proposing to demolish a portion of the former Chrysler service center and renovate the existing building to result in an approximately 21,979 square foot building to serve as Audi's service center. Some parking lot and site improvements are also proposed.

Planner Hill relayed the proposed partial demolition and renovation of the former Chrysler service center is located behind the proposed Porsche site and current Infiniti dealership. The applicant is seeking to make the renovations to the building and parking lot to become a service center for the nearby Audi dealership. The site is approximately 8.15 acres and is located north of Ten Mile Road on the west side of Haggerty Road in Section 24 of the City.

The current zoning of the site is B-3 General Business, with adjacent zoning to the consisting of B-3 to the south and north and OS-1 Office Service to the south and west. Uses in the adjacent B-3 consist of the Audi dealership and a Mobil gas station, while the office uses consist of an orthodontist and law offices. To the east across Haggerty Road is the City of Farmington Hills, which also is designated as B-3 General Business zoning, including a strip mall and Ford dealership.

The Future Land Use map contemplates community commercial for this site and the adjacent B-3 zoned sites to the south and north, with the other adjacent sites within City limits contemplated for Community Office. Across Haggerty in Farmington Hills, the Future Land Use designation is non-center type business.

Natural features include the woodlands and wetlands to the west of the property, which are not proposed to be impacted.

The rendering shown on the screen is the proposed building footprint of the new service center, which will result in an approximately 21,979 square foot building. The parking lot and accessway is proposed to be reconstructed to align with the nearby Porsche site and to provide updated paving. For parking cars to be serviced or stored such as at an auto dealership or service center, bays of 25 spaces are provided if the required interior landscape area is provided. The applicant initially proposed 26 spaces but has committed to complying with the Ordinance for consecutive parking spaces.

As part of your motion sheet, a waiver is included to allow for the loading area in the rear of the site to be shared with the Porsche site. Staff has determined that a waiver is technically not needed since the buildings are located on the same property, and the loading area meets the Ordinance intent to be in the rear yard and out of sight from the road. The applicant has noted that they are willing to work with staff on proposing a loading area that does not interfere with traffic flow and parking onsite.

As part of the stormwater management plan, the applicant is proposing to reconstruct the existing catch basins and make use of the existing stormwater management system onsite.

The east elevation, where the proposed demolition is slated to occur, will primarily consist of an aluminum composite panel system, with existing brick to remain or be repaired as required.

The Planning Commission is asked to consider JSP23-40 Audi Service Center for Preliminary Site Plan and Stormwater Management Plan approval. Tim Wood, the engineer for the applicant, is here tonight if you should have any questions. Staff is also available to answer questions as needed.

Chair Pehrson invited the applicant to address the Planning Commission.

Tim Wood, with Nowak and Fraus, relayed he is always intrigued by the variety of experience that the Planning Commissioners possess as well as their interest in the community. He introduced Joe Gilardone from Lithia Real Estate and Pete Pentescu from Studio Detroit, thanked Planner Hill for the wonderful presentation and relayed that he, Mr. Gilardone, and Mr. Pentescu are available to answer questions.

Chair Pehrson turned the matter over to the Planning Commission for consideration.

Member Lynch relayed his thanks to the applicant for investing in Novi and thinks this is an appropriate site and appropriate use for the site. He expressed his thanks to the applicant for working with the staff and thinks the submittal is pretty clean. He has no issues.

Member Becker inquired regarding traffic flow for auto repair drop off. Mr. Wood responded that this would be for staff only and would not be open to the public, rather the drop off would be at the dealer towards the south, at the corner of Ten Mile Road and Haggerty Road.

Member Becker applauds the fact that two dealerships are using one building for repair instead of two buildings, that is a great accommodation.

Member Verma requested clarification of his understanding that there won't be any cars coming, or loading/unloading in the area. Mr. Wood responded there is a possibility for cars to come as it is a prep center. If someone were to order a vehicle and had special options, it would potentially be dropped off here and then it would be prepared, cleaned, and prepped or have any service work that may be needed. Any customer drop offs though for the service center would be at the actual dealership on Ten Mile and Haggerty.

The route for the car hauler would be through the main drive in between the Infiniti dealer and the proposed Porsche dealership coming around the back of the building. There are indicated spots for loading based at the southwest corner of that building. Only service cars would be parked in that area so it wouldn't interfere with any employees parking there. Additionally, the zoning ordinance requirements were met for the loading space in that in that area. The car haulers, if any, along with parts delivery which would be more common than a car hauler delivering there, would exit counterclockwise around the building, and then come out the same way that they came off of Haggerty Road.

Member Roney had no further comment other than he appreciates the submittal being very clean.

Chair Pehrson had no issues with the submittal, however he requested that when Member Becker gets his new Porsche or Audi, he would like to borrow it on weekends. Member Becker confirmed his agreement.

Motion to approve the JSP23-40 Audi Service Center Preliminary Site Plan made by Member Lynch and seconded by Member Roney.

In the matter of Audi Service Center, JSP23-40, motion to approve the Preliminary Site Plan based on and subject to the findings of compliance with Ordinance standards in the staff and consultant review letters and the conditions and the items listed in those letters being addressed on the Final Site Plan. This motion is made because the plan is otherwise in compliance with Article 3, Article 4, and Article 5 of the Zoning Ordinance and all other applicable provisions of the Ordinance.

ROLL CALL VOTE TO RECOMMEND APPROVAL OF JSP23-40 AUDI SERVICE CENTER PRELIMINARY SITE PLAN MOVED BY MEMBER LYNCH AND SECONDED BY MEMBER RONEY.

Motion carried 5-0.

Motion to approve the JSP23-40 Audi Service Center Stormwater Management Plan made by Member Lynch and seconded by Member Roney.

In the matter of Audi Service Center, JSP23-40, motion to approve the Stormwater Management Plan based on and subject to the findings of compliance with Ordinance standards in the staff and consultant review letters, and the conditions and items listed in those letters being addressed on the Final Site Plan. This motion is made because the plan is otherwise in compliance with Chapter 11 of the Code of Ordinances and all other applicable provisions of the Ordinance.

ROLL CALL VOTE TO RECOMMEND APPROVAL OF JSP23-40 AUDI SERVICE CENTER STORMWATER MANAGEMENT PLAN MOVED BY MEMBER LYNCH AND SECONDED BY MEMBER RONEY.

Motion carried 5-0.

2. APPROVAL OF THE OCTOBER 11, 2023 PLANNING COMMISSION MINUTES

Motion to approve the October 11, 2023 Planning Commission minutes made by Member Lynch and seconded by Member Verma.

ROLL CALL VOTE ON MOTION TO APPROVE THE OCTOBER 11, 2023 PLANNING COMMISSION MINUTES MADE BY MEMBER LYNCH AND SECONDED BY MEMBER VERMA.

Motion carried 5-0.

CONSENT AGENDA REMOVALS FOR COMMISSION ACTION

There were no consent agenda items.

SUPPLEMENTAL ISSUES/TRAINING UPDATES

City Planner McBeth relayed she sent an e-mail out to Planning Commissioners around October 26th that had some offerings from the Michigan State University Extension Service, including the Citizen Planner training and other opportunities. If any Commissioners would like to attend, please let her know.

AUDIENCE PARTICIPATION

Chair Pehrson invited members of the audience who wished to address the Planning Commission during the final audience participation to come forward. Seeing no one, Chair Pehrson closed the final audience participation.

ADJOURNMENT

Motion to adjourn the meeting made by Member Lynch and seconded by Member Becker.

VOICE VOTE ON MOTION TO ADJOURN THE NOVEMBER 15, 2023 PLANNING COMMISSION MEETING MADE

BY MEMBER LYNCH AND SECONDED BY MEMBER BECKER.

Motion carried 5-0.

Meeting adjourned at 7:28 PM.

*Actual language of the motion sheet subject to review.

DRAFT

DRAFT TEXT AMENDMENT 18.303 NONCONFORMITIES

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 18.303

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, ORDINANCE 14-271, THE CITY OF NOVI ZONING ORDINANCE, AS AMENDED, ARTICLE 7 ADMINISTRATION, APPEALS, AND ENFORCEMENT, SECTION 7.1 "NONCONFORMITIES" IN ORDER TO ALLOW EXPANSION OF NONCONFORMING USES, OR USES OF STRUCTURES AND LAND IN CERTAIN LIMITED CIRCUMSTANCES

THE CITY OF NOVI ORDAINS:

Part I. That Section 7.1, Nonconformities, Article 7, Administration, Appeals and Enforcement, of the City of Novi Zoning Ordinance is hereby amended to read as follows in its entirety:

Section 7.1 NONCONFORMITIES

1. Intent. It is the intent of this Ordinance to permit legal nonconforming lots, structures or uses to continue until they are removed but not to encourage their survival, in most situations.

It is recognized that there exists within the districts established by this Ordinance and subsequent amendments, lots, structures and uses of land and structures ~~which that~~ were lawful before this Ordinance was passed or amended ~~which but~~ would be prohibited, regulated or restricted under the terms of this Ordinance or future amendments.

Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district, unless approved as provided in this Ordinance.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved, unless approved as provided in this Ordinance.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

The general intent of this Section notwithstanding, it is recognized that some preexisting nonconforming uses, or uses of structures and land, while not in conformance with the requirements of the zoning district in which located, are not detrimental to the surrounding uses, particularly where the activity or structure has been in use for many years and long accepted. An extension or expansion of such uses, or uses of structures and land, may, in some cases, not be detrimental to the surrounding uses. Thus, the Planning Commission has the discretion over whether to allow such extensions or expansions through a special land use approval, as set forth herein.

2. [unchanged]
3. Nonconforming Uses of Land. Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
 - A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance, unless approved as a special land use by Planning Commission, as provided herein;
 - B.-D. [unchanged]
4. [unchanged]
5. Nonconforming Uses of Structures and Land. If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be permitted in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - A. No existing structure devoted to a use not permitted by this Ordinance in the district in which is it located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located, unless approved as a special land use by Planning Commission, as provided herein.
 - B.-F. [unchanged]
6. [unchanged]
7. Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty (50) percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased, unless approved as a special land use by Planning Commission, as provided herein.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official

- 8.-10. [unchanged]

11. Special Land Use Approval for Nonconformities. As stated in the intent of this section of this Ordinance, there are appropriate circumstances where it may be reasonable to authorize restoration, reconstruction, or extension of nonconforming uses, or uses of structures

and land, as legal conditional uses after proper notification to surrounding property owners as described in Section 6.2 of this Ordinance for special land uses. Such authorizations are subject to special land use approval by the Planning Commission, which shall consider, in addition to standards in Section 6.2 (as applicable), the following factors in exercising its discretion:

i. Any alteration or expansion of the use must meet the height, setback, parking, and other applicable requirements for the zoning district where the property is located, unless the Zoning Board of Appeals grants the necessary variances.

ii. Additional traffic anticipated by an expansion or alteration shall not pose an undue burden on the surrounding neighborhood and uses.

iii. The expansion or alteration shall not go beyond the limits of the parcel of property upon which such use existed at the time it became lawfully nonconforming.

iv. The lighting, noise, vibration, odor and other possible impacts that may be generated shall not be increased beyond the levels that existed prior to the expansion and shall be in compliance with the performance standards of Section 5.14.

v. Total added floor space shall not exceed fifty percent of the existing total floor area as measured in gross square feet. This percentage shall be based on the floor area originally in use when the use became lawfully nonconforming.

vi. The expansion or alteration shall not hinder the future development of surrounding properties in accordance with the Master Plan.

PART II.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV.

Repealer. All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V.

Effective Date: Publication. Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a

brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ____ DAY OF _____, 2023.

ROBERT J. GATT, MAYOR

CORTNEY HANSON, CITY CLERK

Ayes:

Nays:

Abstentions:

Absent:

PLANNING COMMISSION MINUTES EXCERPT FROM JULY 12

- wetland frontage in order to preserve the wetland.
- f. Landscape waiver for insufficient landscaping of interior parking lot areas and trees because the site is otherwise heavily landscaped, and the deficiency is not apparent.
 - g. Landscape waiver for most of the daycare building's foundation landscaping being located away from the building because the alternate locations will be attractive, and the applicant has included landscaping along most of the building frontage facing Ten Mile Road.
 - h. Section 9 Façade Waiver for an overage of Cement Fiber Siding on all elevations of both buildings (0% maximum allowed; ranges from 4% to 10% on the daycare building and 5%-22% on the swim school building) because the use of the materials will not be detrimental to the aesthetic value of the buildings, the use of matching materials & colors on both buildings enhances the overall project, and the overall design is consistent with the intent and purpose of the Façade Ordinance, which is hereby granted.
 - i. The findings of compliance with Ordinance standards in the staff and consultant review letters and the conditions and the items listed in those letters being addressed on the Final Site Plan.

This motion is made because the plan is otherwise in compliance with Article 3, Article 4, and Article 5 of the Zoning Ordinance and all other applicable provisions of the Ordinance.

ROLL CALL VOTE ON MOTION TO APPROVE THE PRELIMINARY SITE PLAN FOR JSP22-53 PRIMROSE DAYCARE AND SWIM SCHOOL MOVED BY MEMBER AVDOULOS AND SECONDED BY MEMBER RONEY.

Motion carried 6-0.

Motion to approve the Primrose Daycare and Swim School Woodland Permit made by Member Avdoulos and seconded by Member Roney.

In the matter of Primrose Daycare and Swim School, JSP22-53, motion to approve the Woodland Permit based on and subject to the findings of compliance with Ordinance standards in the staff and consultant review letters, and the conditions and items listed in those letters being addressed on the Final Site Plan. This motion is made because the plan is otherwise in compliance with Chapter 37 of the Code of Ordinances and all other applicable provisions of the Ordinance.

ROLL CALL VOTE ON MOTION TO APPROVE THE WOODLAND PERMIT FOR JSP22-53 PRIMROSE DAYCARE AND SWIM SCHOOL MOVED BY MEMBER AVDOULOS AND SECONDED BY MEMBER RONEY.

Motion carried 6-0.

Motion to approve the Primrose Daycare and Swim School Stormwater Management Plan made by Member Avdoulos and seconded by Member Roney.

In the matter of Primrose Daycare and Swim School, JSP22-53, motion to approve the Stormwater Management Plan based on and subject to the findings of compliance with Ordinance standards in the staff and consultant review letters, and the conditions and items listed in those letters being addressed on the Final Site Plan. This motion is made because the plan is otherwise in compliance with Chapter 11 of the Code of Ordinances and all other applicable provisions of the Ordinance.

ROLL CALL VOTE ON MOTION TO APPROVE THE STORMWATER MANAGEMENT PLAN FOR JSP22-53 PRIMROSE DAYCARE AND SWIM SCHOOL MOVED BY MEMBER AVDOULOS AND SECONDED BY MEMBER RONEY.

Motion carried 6-0.

2. JZ23-16 GABRIEL REZONING WITH MAP AMENDMENT 18.742

Public hearing at the request of Paul Gabriel for Planning Commission's recommendation to City Council for a Zoning map amendment from Light Industrial (I-1) to Residential Acreage (RA). The subject site is approximately 3.98 acres and is located at 41700 Eleven Mile Road, which is on the north side of Eleven Mile Road and west of Meadowbrook Road (Section 14). The applicant has indicated that the proposed rezoning is being requested to allow for the existing home and pole

barn onsite to be remodeled and expanded.

Planner James Hill relayed the requested Zoning Map amendment for a 3.98-acre parcel at 41700 Eleven Mile Road, is located on the north side of Eleven Mile Road, west of Meadowbrook Road, in section 14 of the City. The applicant is seeking to rezone the parcel from I-1 Light Industrial to RA Residential Acreage, so that they may remodel or expand the current residence and pole barn on the property. Currently, the residence is a legal nonconforming use and is allowed to remain but is not permitted to expand its footprint. The site has been zoned with its current I-1 Light Industrial zoning since November 1985, and at the time the property owners, who are not the same as the current property owners, understood that the residential function would become non-conforming.

As stated, the current zoning of the site is I-1 Light Industrial and the surrounding zoning has the same Light Industrial zoning. The uses of the surrounding properties primarily include office uses as permitted by the current zoning. As stated in the review letter, a rezoning to RA Residential Acreage would put stricter development standards on the surrounding I-1 Light Industrial zoned properties due to their adjacency to residential zoned property.

The Future Land Use map indicates that this parcel has a Future Land Use as Industrial Research Development and Technology, in addition to all the surrounding properties having the same Future Land Use, which is consistent with the current I-1 Zoning District. The proposal to rezone this parcel to RA Residential Acreage, therefore, does not align with the intent of the 2016 Master Plan for Land Use.

Natural features on the site include a considerable amount of wetland including the waterway that bifurcates the parcel in addition to the wetlands in the rear of the site. The proposed renovations and expansion of the house or barn are not expected to have any effect on the natural features.

On June 14 of this year, the rezoning was brought before the Master Plan and Zoning Committee for informal review due to the fact that it does not align with the intent of the 2016 Master Plan for Land Use. Committee members in attendance agreed that it made sense for the property owner to expand or renovate the existing residence but also showed concern for the impact a rezoning would have on neighboring properties.

After receiving feedback and discussing with Planning staff, the applicant is requesting to postpone the public hearing so as to explore other options that would allow them to make those changes to the home. The postponement is supported by Staff.

Staff suggested an alternative option to work with the applicant on drafting a text amendment that would allow some expansion of the legal nonconforming use to take place. A text amendment of this sort could also seek to alleviate some restrictions on other select property owners in the City that have longstanding uses that have become nonconforming but would like to expand to some extent.

The Planning Commission is asked tonight to postpone the consideration to a later date. The applicant is here tonight and is available to answer any questions the Planning Commission may have. Staff is also available to answer any questions regarding the proposed rezoning.

Paul Gabriel, 24010 Meadowbrook Road, relayed he is in support of postponing this matter as alternative options for the rezoning are explored.

Chair Pehrson opened the Public Hearing and invited members of the audience who wished to participate to approach the podium. Seeing no one, Chair Pehrson asked Member Lynch to read the correspondence.

Member Lynch relayed that an objection was received from Joseph Kosik, JFK Investment Company, representing four different properties at 41551 Eleven Mile Road, 41541 Eleven Mile Road, 41650 Gardenbrook and 41700 Gardenbrook. The objection has to do with this being a lone parcel in a business park and he doesn't see a need for residential.

Chair Pehrson noted the public hearing would remain open due to the postponement and turned the matter over to the Planning Commission for consideration.

Motion to postpone JZ23-16 Gabriel Rezoning made by Member Lynch and seconded by Member Roney.

In the matter of JZ23-16 Gabriel Rezoning, with Zoning Map Amendment 18.742, motion to postpone consideration to a later date in order for the applicant to have more time to explore alternative options available to them.

ROLL CALL VOTE ON MOTION TO POSTPONE JZ23-16 GABRIEL REZONING MOVED BY MEMBER LYNCH AND SECONDED BY MEMBER RONEY.

Motion carried 6-0.

3. TEXT AMENDMENT 18.301

Public hearing of the staff-initiated request for Planning Commission's recommendation to the City Council regarding Text Amendment 18.301 to remove the EXPO Zoning District, modify use standards for microbreweries and brewpubs, update standards related to daycares, update standards related to site lighting, fix inconsistencies, and remove or modify some conflicting sections of the Zoning Ordinance.

Planner Hill relayed the text amendment contains several changes including both the addition and removal of language within the Zoning Ordinance. Staff introduced the text amendment to Planning Commission on May 24, and since then has made some changes such as the edited use matrix provided in the packet as attachment A, which is included at the beginning of the Zoning Ordinance for users to have a quick reference for if a certain use is allowed in a specific Zoning District. We've made edits to ensure that the use matrix accurately reflects the uses laid out in the ordinance.

In addition, a provision was added for carports that will allow for both regulation and to permit them more easily when needed. Major changes that remained include removing the EXPO zoning district, modifying microbreweries and brewpubs use standards to match restaurant uses more closely, updating standards related to daycares due to a change in state law, updating some standards related to site lighting, and the removal or modification of some conflicting sections of the Zoning Ordinance.

Staff is available to answer any questions you may have regarding the Text Amendment or its content and changes to the Zoning Ordinance.

Chair Pehrson opened the Public Hearing and invited members of the audience who wished to participate to approach the podium. Seeing no one, Chair Pehrson asked Member Lynch to read the correspondence.

Member Lynch relayed that correspondence was received from Andrew Mutch requesting as part of the Text Amendment 18.301 clean-up, that the Planning Commission consider some additional sections for inclusion. Mr. Mutch referenced inconsistent terms in section 3.29 Residential Unit Development, 4.70 Low-Rise Multiple-Family Residential Uses in the PSLR District and 4.71 Live/Work Units.

Chair Pehrson closed the public hearing and turned the matter over to the Planning Commission for consideration.

Member Lynch inquired as to if there was any reason Mr. Mutch's comments wouldn't be considered as the comments lead him to believe there is confusion regarding dwelling units per acre, as to whether it is net acre excluding the wetlands as opposed to net site acreage.

City Planner McBeth relayed that the communication from Mr. Mutch was just received the afternoon of this evening's Planning Commission meeting and believes that it is meant to clarify in case there is some confusion in reading the definitions versus the language. We do appreciate the comments but cannot recommend that the Planning Commission include any changes at this time as they were not advertised

MEMORANDUM



TO: MEMBERS OF THE PLANNING COMMISSION
FROM: JAMES HILL, PLANNER
THROUGH: BARBARA MCBETH, AICP, CITY PLANNER
SUBJECT: INTRODUCTION TO TA18.304 – HOME OCCUPATIONS
DATE: NOVEMBER 8, 2023

Background

Staff have been working with the City Attorney since the spring of this year on a text amendment modifying the existing language governing home occupations in the City. This was after a number of complaints and a request from the City Council to the Ordinance Review Committee to explore potential changes to the Zoning Ordinance. On June 13, the Ordinance Review Committee was introduced to the idea of drafting an amendment that would address the issue. The April 23 memo from the Community Development Department, in addition to the minutes from the June 13 ORC meeting, are attached to this memo.

At the June 13 meeting, committee members expressed concern over enforcement of newly adopted restrictions to home occupations. Staff responded to the concern, stating that an Ordinance officer would have to physically observe any infractions of new or existing home occupation ordinances. The meeting concluded with a commitment by staff and the City Attorney's office to come back to the ORC with a draft ordinance.

At the August 8 ORC meeting, the draft ordinance was brought before the committee members. The minutes from the August 8 meeting are attached to this memo. Once again, the question regarding enforcement was brought to attention by committee members, specifically how the City enforces its current ordinances. Staff responded that they enforce violations when they are noted in complaints and when staff notices them.

Staff provided an overview of the additions to the text amendment, including enforcing against the renting of cars from a home, enforcing against the hosting of a dance studio with 15 students coming and going every hour, and enforcing deliveries to homes for home occupations being restricted to vehicles from Amazon, UPS, etc.

The Ordinance Review Committee, after some discussion, made the motion to recommend the proposed amendments to the Planning Commission for comment and public hearing to eventually return to the ORC.

The Text Amendment was introduced to the Planning Commission on September 27, and a public hearing was set for residents to voice their concerns on November 15. No changes have been made since the Text Amendment was introduced to the Planning Commission.

On November 15, the Planning Commission is asked to hold the public hearing for the text amendment to the Zoning Ordinance. Following the public hearing, the Planning

Commission is asked to make a recommendation to the City Council on the proposed ordinance amendment. The attached draft version of the proposed amendment is subject to review and changes by the City staff and/or the City Attorney's Office, in addition to the Planning Commission and City Council. Please contact the Planning Department with any questions or concerns.

DRAFT TEXT AMENDMENT 18.304: HOME OCCUPATIONS

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 18.304

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, ORDINANCE 14-271, THE CITY OF NOVI ZONING ORDINANCE, AS AMENDED, AT THE FOLLOWING LOCATIONS: ARTICLE 4 USE STANDARDS SECTION 4.4 "HOME OCCUPATIONS"

THE CITY OF NOVI ORDAINS:

Part I. That Article 4, Use Standards, of the City of Novi Zoning Ordinance is hereby amended in the following section:

Section 4.4 HOME OCCUPATIONS

In the RA, R-1, R-2, R-3, and R-4 districts, home occupations are permitted subject to the following regulations and any other applicable laws and regulations, including in this chapter:

1. The home occupation must be conducted by a full-time resident of the property and must be clearly incidental and subordinate to its use for residential purposes by its occupants
2. There is no sign, advertising device, or other manifestation may be displayed on the inside of the dwelling so as to be visible through a window or glass area, or located on the exterior of the dwelling structure or within any yard area, which such sign, devise, or manifestation suggests or implies the existence of a home occupation
3. The home occupation must be conducted wholly within the main building by the residents thereof. No outside storage of goods, products, supplies, equipment, or other materials associated with the home occupation is permitted.
4. There is not involved. The home occupation shall not involve the keeping of a stock in trade and no article shall be sold or offered for sale from the home to customers or visitors to the home. Articles made in the home by the inhabitants thereof, may be delivered by the resident to markets off premises.
5. The home occupations shall not be carried on to an extent so as to require parking in excess of that required for the residential structure in which it is located.
6. Any home occupation may not that creates objectionable noise, fumes, odor, dust, or electrical interference detectable to the normal senses off the premises, or create a hazard or a nuisance or more than normal residential traffic shall be prohibited.
7. Engaging in the sale, repair, storage, or rental of autos, trucks, recreational vehicles, boats or construction and landscape equipment or machinery is prohibited as a home occupation

8. Traffic generated by the home occupation shall not be more than would normally be expected in a residential neighborhood. The home occupation shall not serve more than four customers or clients at one time, and there shall be no more than two employees on the premises at any time, with a limitation of no more than ten customer or client trips per day.

5.9. Deliveries related to the home occupation shall be limited to package services (e.g., UPS, USPS, FedEx, Amazon, etc.). Deliveries may also be accomplished using the passenger vehicle of the resident(s) engaged in the home occupation.

PART II.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV.

Repealer. All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V.

Effective Date: Publication. Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ____ DAY OF _____, 2023.

ROBERT J. GATT, MAYOR

CORTNEY HANSON, CITY CLERK

Ayes:

Nays:

Abstentions:

Absent:

DRAFT

LETTER FROM COMMUNITY DEVELOPMENT DEPARTMENT DATED APRIL 23, 2023

MEMORANDUM



TO: VICTOR CARDENAS, INTERIM CITY MANAGER
FROM: CHARLES BOULARD, COMMUNITY DEVELOP. DIRECTOR
SUBJECT: ZONING ORDINANCE HOME OCCUPATION PROVISIONS
DATE: APRIL 23, 2023

Background:

The City Council recently requested the Ordinance Review Committee (ORC) explore potential amendments to the Home Occupations language of the Zoning Ordinance. In support of The ORC effort the Code Compliance team has documented typical home occupation complaints throughout the City. While the recent issue was related to online vehicle rentals, past concerns and complaints have included the following:

- Group dance and martial arts lessons
- Landscape, plowing and lawn care businesses.
- Jet ski and boat repair
- Home meat sales including preparation of BBQ.
- Pet breeding
- Deck and construction contractors
- Excessive shipping deliveries, pickup and staging
- Hair salons

There is no question that inappropriate types or scales of home occupations can have a detrimental impact on the resents and desirability of neighborhoods, there is a rich history of home-based innovation and business start-ups in residential settings. Hewlett Packard, Mattel, Disney, Amazon, Microsoft, and Apple were all started in garages, Under Armour began in the founder's grandmother's basement, Tumbler and a host of software companies were started in apartments and on dining room tables. Dell expanded to a garage when it outgrew a dorm room.

There are also a number of other State and Federal provisions providing guidance to consider including but not limited to:

- Religious Land Use and Institutionalized Person Act (RLUIPA)
- MCL 125.3204 regarding instruction in craft or fine art as a home occupation
- MCL 125.1504b regarding bed and breakfast (owner occupied)
- MCL 125.3206 regarding residential use of property for adult foster care, childcare or residential treatment programs

Potential revisions:

The current Home Occupations section of the City of Novi Zoning Ordinance language reads as follows:

4.4 HOME OCCUPATIONS

In the RA, R-1, R-2, R-3 and R-4 districts, home occupations are permitted subject to the following regulations:

1. There is no sign, advertising device, or other manifestation displayed on the inside of the dwelling so as to be visible through a window or glass area or located on the exterior of the dwelling structure or within any yard area, which such sign, devise, or manifestation suggests or implies the existence of a home occupation.
2. The home occupation is conducted wholly within the main building by the residents thereof.
3. There is not involved the keeping of a stock in trade and no article shall be sold or offered for sale from the home. Articles made in the home by the inhabitants thereof may be delivered by the resident to markets off premises.
4. Home occupations shall not be carried on to an extent so as to require parking in excess of that required for the residential structure in which it is located.
5. Any home occupation that creates objectionable noise, fumes, odor, dust, electrical interference or more than normal residential traffic shall be prohibited.

Current and sample ordinances from local communities including Northville Township, Lyon Twp, Farmington Hills, Berkley, Canton Twp, Rochester Hills were compared along with Maricopa County, AZ, Ashland OR, Roanoke VA, Scott County MN, and the Vermont Land Use Collaborative.

Not surprisingly, many Ordinances share similar provisions, but there were also a number of potential opportunities for clarification and/or limitations identified and suggested for review:

- Maximum (4) customers or clients present at any time.
- Maximum (2) nonresident employees on premises at any time
- Maximum (10) customer or client trips per day
- Home occupation shall not be open to customers, clients, employees, or patrons before 8 am on weekdays, 9 am on weekends, nor after 8:30 pm on any day of the week.
- There shall be no outdoor storage of goods, products, equipment, or other materials associated with home occupation.
- Deliveries related to the home occupation shall be limited to package services (e.g., UPS, USPS, FED EX, Amazon) or utilization of the owners passenger vehicle.

- Requirement that the residence be occupied by the business owner.
- Prohibition of specific uses such as auto/boat/ recreational vehicle repair or maintenance, rental vehicles
- Bolster fume, noise, dust, glare, odor, fire hazard language

As with any Ordinance language, clear, easily communicated, interpreted, and verified expectations are of benefit for property owners as well as City staff and the Courts should formal enforcement be required. To this end the suggestions avoided language such as "that the average neighbor, under normal circumstances" or restrictions on percentage of interior floor area that would require interior entry for verification.

Please let me know if I can provide any additional information.

ORDINANCE REVIEW COMMITTEE MINUTES FROM JUNE 13

ORDINANCE REVIEW COMMITTEE

June 13, 2023 | 5:00 p.m.

Mayor Gatt called the meeting to order at 5:00 P.M.

ROLL CALL: Mayor Gatt, Mayor Pro Tem Staudt, Council Member Crawford (Absent)

ALSO PRESENT: Thomas Schultz, City Attorney
Charles Boulard, Director of Community Development
Cortney Hanson, City Clerk

APPROVAL OF AGENDA:

Mayor Gatt removed item 3 regarding the City West Ordinance. This committee usually reviews existing ordinances, not new ones. He said there is a lot of concern from the public and he thought it would serve the public better if the full Council reviews the topic at a regular meeting.

ORCM 23-06-01 Moved by Staudt, seconded by Gatt; CARRIED UNANIMOUSLY:

To approve the agenda as amended.

AUDIENCE COMMENT:

Khurram Abbas said he lives in Asbury Park and was interested in what this committee would do to address concerns regarding the City West Ordinance because a lot of residents have concerns related to setbacks and heights.

MATTERS FOR DISCUSSION:

1. Approval of minutes from July 12, 2021:

ORCM 23-06-02 Moved by Staudt, seconded by Gatt; CARRIED UNANIMOUSLY:

To approve the Ordinance Review Committee meeting minutes from July 12, 2021.

2. Proposed amendments to the Zoning Ordinance related to home occupation.

Mr. Boulard said earlier this spring, Council requested that staff explore amendments to the zoning ordinance that regulate home occupations. We've had challenges with that during the spring. Staff looked at several ordinances from around the country and came up with several suggestions that are outlined in the memo. What they are looking for are measurable and easily enforced consistently that would improve interactions of home occupations and neighbors. Mayor Gatt asked how many complaints we get related to home occupations. Mr. Boulard said 2-4 a year. Mayor Gatt asked what those complaints centered around. Mr. Boulard said usually the intensity of the use. For example, there is a dance school run out of a home with 8-10 people dropped off for lessons and the parents wait for them. Another was renting vehicles through an app. He said staff identified a few options and went over them from the memo. Mayor Gatt asked how we would enforce this. Mr. Boulard said an ordinance officer would have to watch the house once if there was a complaint. There is no way to do it

City Attorney Schultz said a few things were added, some of which we specifically requested. Mayor Pro Tem Staudt said he heard complaints about item 2 and pointed out that it was already existing in the ordinance. Director Boulard said we do enforce that currently.

City Attorney Schultz said item 7 is new. This was to enforce against the renting of cars or repairing cars out of a home. He added that all communities enforce these types of ordinances on a complaint basis. Director Boulard explained that usually by the time a person is in violation of an ordinance, it's apparent and that causes complaints. He gave an example of a person who rented their property to people to store their boat on and have 8-10 boats on his property. It would not impact a homeowner storing their own boat.

City Attorney Schultz said item 8 is new as well and it's related to traffic coming and going from a home business. Director Boulard explained this would help us enforce against a home occupation, such as a dance studio, in a home that has 15 kids coming and going every hour.

City Attorney Schultz said item 9 is related to deliveries and explained the idea is to allow the size that people expect, such as Amazon, UPS, etc. It is specific to the home occupation aspect and not routine deliveries.

City Attorney Schultz spoke about items 3 and 4. Item 3 already stated the home occupation has to be in the main building and the proposed amendment is to have no outside storage of goods. Item 4 states that people can't come to your home to pick up something you made there; this was already existing. The new language simply clarifies it. Mayor Pro Tem Staudt said this was an item that needs to be discussed. City Attorney Schultz pointed out that this already existed in the ordinance. Mayor Gatt said unless it's something egregious, they wouldn't likely be complaints. Mayor Pro Tem Staudt said this started because of someone renting cars from their home and it became a nuisance. He suggested sending it to the Planning Commission for their remarks. There would be a public hearing, and everyone interested would have a chance to speak about this publicly.

ORCM 23-06-04 Moved by Crawford, seconded by Staudt; CARRIED UNANIMOUSLY:

To recommend the proposed amendments to the Zoning Ordinance related to home occupations to the Planning Commission for their recommendation and have this topic return to ORC.

The meeting was adjourned at 6:07 p.m.

Recorded by: Cortney Hanson
City Clerk

ORDINANCE REVIEW COMMITTEE MINUTES FROM AUGUST 8

ORDINANCE REVIEW COMMITTEE
August 8, 2023 | 5:00 p.m.

Mayor Gatt called the meeting to order at 5:00 P.M.

ROLL CALL: Mayor Gatt, Mayor Pro Tem Staudt, Council Member Crawford

ALSO PRESENT: Victor Cardenas, City Manager
Thomas Schultz, City Attorney
Charles Boulard, Director of Community Development
Cortney Hanson, City Clerk

APPROVAL OF AGENDA:

ORCM 23-06-01 Moved by Staudt, seconded by Gatt; CARRIED UNANIMOUSLY:

To approve the agenda as presented.

AUDIENCE COMMENT: None

MATTERS FOR DISCUSSION:

1. Approval of minutes from June 13, 2023:

ORCM 23-06-03 Moved by Crawford, seconded by Staudt; CARRIED UNANIMOUSLY:

To approve the Ordinance Review Committee meeting minutes from June 13, 2023

2. Proposed amendments to the Zoning Ordinance related to home occupation.

Director Boulard said staff was asked to look at the home occupation provisions of the ordinance. They looked at examples from other communities and considered which would allow us to limit the types of uses that get out of hand like rental cars and dance studios being run in homes. If there is a recommendation from this committee, the ordinance amendment would go to the Planning Commission.

Mayor Pro Tem Staudt said he received calls from residents about this asking if we don't enforce the ordinances we already have, why are we creating new ones. He provided a few examples of things that violate certain ordinances and questioned why the ordinance wasn't being enforced. He said the biggest question was do we enforce the existing ordinances. Director Boulard said they respond when there are complaints and when violations are reported or noticed by staff. Mayor Pro Tem Staudt pointed out that there is currently an ordinance on home occupations and these recommendations are simply adding to it. City Attorney Schultz said yes, things were added to address specific complaints and to clarify the existing ordinance. Mayor Pro Tem Staudt asked whether the covenants of an HOA or the City's Code of Ordinances take precedence. City Attorney Schultz said it's a matter of who can enforce it. The City can enforce it's own Code of Ordinances and the HOA can enforce it's own covenants.

without observing. Mayor Gatt said that's a difficult task and would make it a difficult ordinance to enforce if we pick some of them.

Mayor Pro Tem Staudt said his experience is different. He has 3 specific instances in a small area in his subdivision. One is a commercial sandwich maker that has deliveries by semi every week. It's in violation of ordinance and he was sure they were aware of it. Another is daily renting of vehicles. There is an app where you can rent a car from an individual. It's not a bad deal when its only 1 or 2 cars but what about 7 or 8. The complaints he heard was that there were so many vehicles, they were driving on neighbor's lawn, rentals being picked up at 1am, and using the schools as a pickup point. He said HOA has tried to do things about this in the past. He believes this is a bigger issue than we really know. He thought the neighbors didn't want to turn on each other and report people to the City. An issue he saw becoming a bigger issue is the regulation of temporary rentals of homes, like Airbnb's. Airbnb's are becoming a bigger issue. He's had 3-4 complaints about people who live next to rentals and people throwing parties. He wasn't sure the best way to deal with it. He didn't want staff to be sitting there watching this to track it. Local neighborhoods aren't meant to be rental car lots. We need to be prepared to deal with this as its going to be an ongoing issue.

Mayor Gatt asked if they were being asked to send something to council or just discuss the topic. Mr. Boulard said he wanted to present opportunities, if they thought some of these were worth pursuing, they would work with attorney to draft an amendment for them to see. Mayor Pro Tem Staudt asked if this was an issue in other communities; are they putting new ordinances in place? City Attorney Schultz said zoning ordinances in other communities have home occupation ordinances, but they are vastly different. He said the language probably hasn't been looked at in a while, but what was presented are good options. We might have to handle home occupation and the Airbnb topic separately. We are waiting for the state to pre-empt us from doing anything. It's kind of stalled. We've talked internally about what we might do. He said we'd come back with a draft ordinance for home occupation.

3. Discussion of a new zoning district: CW City West.

This item was removed from the agenda.

The meeting was adjourned at 5:22 p.m.

Recorded by: Cortney Hanson
City Clerk