

**City of Decatur  
Planning Commission**

**April 9, 2024 Regular Meeting  
MINUTES**

Decatur City Hall  
City Commission Room  
509 North McDonough Street

Members Present: Rachel Cogburn (Chair), Marc Brambrut, Greg Chilik (Vice Chair), Jason Friedlander, Joe Greco, John McFarland, and Jenny Stein

City Staff: Kc Krzic (Planning Manager), Nahom Taye (Planner), and Aileen de la Torre (Planner)

**Call to Order** at 7:02 p.m.

Ms. Cogburn confirmed a quorum and called the meeting to order at 7:02 p.m. She provided introductions of the Commission members and delivered an overview of the procedural process for the meeting.

**Unfinished Business.**

**Approval of Minutes** from March 12, 2024 regularly scheduled meeting.

*On a motion by Mr. Brambrut, seconded by Mr. McFarland, the minutes were approved as presented. The motion passed unanimously.*

**New Business.**

**Bogumila Kabat with Smarties Academy has requested the modification of zoning conditions to increase enrollment of a day care center from 148 to 178 students at 465 Clairemont Avenue.**

**Bogumila Kabat with Smarties Academy has requested the modification of conditions of a conditional use permit to increase enrollment of a day care center from 148 to 178 students at 465 Clairemont Avenue.**

Ms. Cogburn stated that the request for a modification of the zoning condition for the zoning amendment and conditional use permit can be presented together, yet separate motions will be needed to each request.

The Applicant, Ms. Bogumila Kabat who is the owner of Smarties Academy, located at 465 Clairemont Avenue, spoke about the requested application. She noted that they are an early learning center for children from the age of 6 weeks old to 5 years old. She has been to the commission before and is requesting a change to the condition that states a maximum enrollment of 148 students. In 2023 she sought an approval to construct an addition to the existing building on the property; however, decided to withdraw the application because the neighborhood was not in support of the request. The current conditional use permit limits the student enrollment at 148 students, which was the number that the State's Bright From the Start program license allowed. At this moment, she has a wait list of over 500 children. Since then, the classrooms within the building have been increased, so there is now an occupancy of 256 persons within the building and the State's Bright From the Start has issued a new license for 190 students. She is asking to increase the current limit of 148 students to 178 students.

In a response to a question by Mr. Chilik, Ms. Kabat stated that the reason for the increase in capacity is because the church was previously in the building. More specifically, they did not occupy the entire building, just the area for the child care center that was limited to a capacity of 148 students. When the Church left the property, they were then able to occupy the areas, previously occupied by the Church. This provided them the ability to create additional classrooms, which led to Bright From the Start increasing the capacity of students to the current number of 190. In 2022, she was not sure if they would expand into the Church portion of the building because she did not have that arrangement with the Church or own the property. She just wanted to ensure that the child care center could be legally operated.

In a response to a question by Ms. Cogburn, Ms. Kabat stated that the current State license is issued for 190 students, yet the license in 2022 was for 148 students.

In a response to a question by Ms. Stein, Ms. Kabat stated that she is currently at the regulated student number of 148. She also has a long wait list for her child care services.

In a response to a question by Mr. Brambrut, Ms. Kabat stated that the traffic study was created because the 2023 request was to build an addition and have a student enrollment of 300. After hearing a lack of support from the neighbors, the request was reduced to 250 students. This also did not receive support of the neighbors, so she abandoned the idea of pursuing the building expansion and student increase. The application was later withdrawn. She did not seek an additional traffic study because it was decided not to move forward with the addition.

In a response to a question from Mr. Friedlander, Ms. Kabat stated that the reason for the 178 students is because she would like to have an after school program/ summer camp program for families who are already enrolled within the center. There is an area in the chapel that can be converted into two classrooms, each of which could accommodate 15 students (30 students total) or the area could be used for 30 students in the after school program. Smarties believes in high quality programming, so she does not want to increase the enrollment over 30 students.

In a response to a question from Ms. Cogburn, Ms. Kabat said that the increase of 30 students would require four new staff members to be hired.

In response to a question by Mr. Friedlander, Ms. Kabat said the summer camp will not remedy the waitlist. It will allow families to drop off older children at the same time during summer months. These new spaces will also be made available to the children of the staff members.

In a response to a question from Mr. McFarland, Ms. Kabat noted that the current intent is to offer a summer camp with 30 students. She may consider creating 2 classrooms at a later date, which would allow for the same 30 student capacity: 14 in one classroom and 16 in the other classroom. She is requesting the increase to 178 students to fill the additional 30 spaces needed for the summer camp.

Having no more questions for the applicant, Ms. Cogburn opened public comment. She asked if anyone wanted to speak in favor of the application. No one came forth to speak, so she asked if anyone wanted to speak in opposition of the application.

Mark Brown, 128 Erie Avenue. He has a lot of respect for Ms. Kabat and really appreciates the service she provides. He is concerned with the traffic congestion, the parking lot is full, the drop of is dangerous, and no safety measures are provided. He is also opposed to the commercial scale of the site. It started at 148 students, now it is being asked to go 178 students. There are trucks coming and going

and weed eaters and mower maintaining the yard. He opposes it because it is in the middle of a neighborhood.

Jack Hutchinson, 516 Clairemont Avenue. He is concerned with the traffic. The traffic backs up at Erie and Clairemont Avenues from Smarties Academy and the elementary school at peak hours. He would like to know what percentage of student body and the applicant list pool is from the City of Decatur.

Matthew Woodruff, 124 Erie Street. He is not here to speak in opposition, but he thinks he can add some unique perspectives. He has three children who attend Smarties Academy, it is a wonderful program, and they do an excellent job. He has also graduated one student from there who now attends Clairemont. He is a member of the school leadership team. Even though he is on the Parent Teacher Association, he is speaking as an individual. There are routine conversations about the limited nature of high-quality day care. From a school perspective there are a lot of walkers and scooters that come through the Erie Avenue corridor, since the City of Decatur Schools promote walkability. There is traffic and there are parents parking on the street or dropping children off in a hurry, but that is not always the fault of Smarties Academy. Most traffic is coming through the Clairemont corridor. As a property neighbor, this proposal comes off of a larger proposal and he appreciates the reset of Smarties Academy to take the neighborhood concerns into consideration.

Deborah Painter, 320 Superior Avenue. She sees traffic because instead of driving out of Clairemont, drivers turn down her street. When she has to wait to cross the road while walking her dog in the morning, there is too much traffic. She would like to see more walkers and bikers. If more students are added, the character of the property will be impacted. New play areas will be needed, trees will be cut down, landscaping will be removed.

Sharon Martin, 521 Clairemont Avenue. She remembers when the Church did depend on the day care center for their day-to-day operation. She was here for the 2022 rezoning and Ms. Kabat stated that she would not need more than 148 students. In 2023 there was a building expansion, and now there is a request for 30 more students. Ms. Kabat keeps saying "at this time," so will there be another request.

Julia Brown, 128 Erie Avenue. She opposes the increase for the reasons located in her letter submitted. In 2022, the agreement was made for the 148 students, and she relied upon that number. Since then, it has been more commercialized. There is more activity on the site since 2022, and that may be because enrollment was lower at the time. Shortly after that a building addition was proposed that doubled the size of the original Church. These were seen at the Historic Preservation Commission and the Planning Commission. Now we are back again for an increase in enrollment. She does not believe that anything has changed to warrant and increase. If anything, the increase in the commercialization and intensification of the property requires additional conditions. These include replacing the green buffer between the condominiums and the parking lot, replacing the landscaping along Erie between the curb cuts, dimming the night lighting, and correcting the garbage upon the property. She does not believe this is a fear of change, but an issue of trust.

Rick Herzog, 454 Clairemont Avenue. He believes that Smarties Academy has a negative impact on the community due to the commercialization of the property. Issues of safety from traffic and children walking, the trash pickup, and the cutting of the trees near the condominiums. There is also an increase in service truck traffic for supplies, maintenance, and lawn care. He believes that there has always been plans to expand and that expansion will continue.

Spencer Hofstetter, 224 Wilton Drive. His street receives all the traffic cutting through the neighborhood. He agrees with the previous gentleman and believes that there has always been plans to expand and that expansion will continue. He is also concerned with the commercialization of the property.

Connie Moore, 219 Lucern Street. She has sincere appreciation for Smarties Academy because her family owns and operates the longest running early childhood education center on Sycamore Drive in Decatur, which is also within a residential neighborhood. She does not believe that Decatur is located within a childcare desert because the city is blessed to have many options for child care. She wants to know if the 500 student waiting list a cumulative number or a point in time. She also sees a lot of traffic come through the neighborhood.

There being no further public comment for or against the application, Ms. Cogburn closed public comment and opened the meeting to board discussion.

Ms. Kabot heard the neighbors speak about the trash, but the picture shows trash that is picked up by the City of Decatur. She is responsible to move the empty trash can back on the property. Just to clarify that this is not the way she operates her business and has had to call the City of Decatur several times about the trash pick-up. In 2022, when buying the property, she was unsure of the long-term plan for the center. She was focused on ensuring that the child care use was legal. The 148 student capacity issued by Bright From the Start was prior to them being able to occupy the entire building.

In response to a question by Mr. McFarland, Ms. Kabat stated that she has 38 full time and 4 part time employees to meet the needs of 148 students. Many of her staff carpool from areas outside of Decatur but does not have exact numbers. Staff vehicles typically occupy half of the spaces in the parking lot.

In response to a question by Mr. Brambrut, Ms. Kabat would like to ensure that the landscaping is inviting. She intends to plant additional trees and shrubs. She was fined for removing trees; however, the only thing removed was brush. When she took over ownership of the Church, there was maintenance that had to occur such as roofing and building clean up. That is why the neighbors have seen additional trucks and workers over the past year.

In response to a question by Ms. Stein, Ms. Kabat stated that when the certificate of occupancy was provided to occupy the entire Church, both Bright From the Start and the Fire Marshal came out to the building and reissued the license for 190 students. Even if she converted the previous Chapel into two classrooms, she would not be able to have more than 178 students.

In response to a question by Mr. Chilik, the State does allow 190 students within the entire building, but because of the quality of care that she provides, she would not want to overcrowd the classrooms.

In response to a question by Mr. Friedlander, Ms. Kabat is not aware of the 36 crashes between Clairemont Avenue and the driveway on Erie Avenue. When the traffic study was done in 2023 the engineer was comfortable with the numbers collected and the recommendations made for the expansion requested. Since the expansion is not occurring, she did not have another study created.

Mr. Friedlander stated the need to know about other forms of travel, such as walking, biking, and carpooling. He would like to know what percentage of alternate travel options occur by the students and their families. He believes that knowing these numbers may unveil scenarios where 30 students only

create 12 cars that travel to the center. Ms. Kabat stated that the 30 students in the summer camp are existing families, so they would be dropped off together.

In response to a question by Mr. Greco, Ms. Kabat confirmed that it is no longer her intent to expand the existing building with an addition. The business of Smarties Academy will expand; it will just not be at this location.

In response to a question by Ms. Stein, Ms. Kabat confirmed that the peak hours are 7:30 to 9:00 am and 4:00 to 5:30 pm. The highest peak in the morning is between 7:30 and 8:00 am on weekdays for drop off. Evening hours are not as busy for pick up and weekends are not busy since many families are at home.

In response to a question by Mr. Friedlander, Ms. Kabat stated that she operates a full-time program Monday through Friday. The number of students who are dropped off every day fluctuates because parents who work outside the home and/ or work from home are different. Students do not have to come every single day. Ms. Kabat confirmed that her enrollment is 148 students, yet the number of students who arrive at the center fluctuates each day.

In response to a question by Mr. Friedlander, Ms. Kabat stated that she is not comfortable agreeing to additional conditions being added to the request, such as landscaping and screening because she is not aware of what the final cost would be.

Ms. Cogburn closed the public comment portion of the meeting and asked if there was any discussion from the Planning Commission members.

Mr. Greco reminded everyone that the Planning Commission is not here to evaluate the quality and services that Smarties Academy provides. They are here to review changes in land use and in this case the request to increase the enrollment. He was here in 2022 when the initial rezoning and conditional use permit were heard. At that time, the neighbors came out to express their concerns. Ms. Kabat confirmed that she only needed 148 students to operate her business. There were compromises to ensure that all parties were satisfied, and a recommendation was made for approval. Eight months later, Smarties Academy came to the Historic Preservation Commission with a grandiose addition plan, which was not what was agreed to at the Planning Commission and City Commission. Now, one year after that request, we are here again for an increase of enrollment. Even though this is a smaller incremental change, he will still stand by the agreement and recommendation made in 2022 to keep the student enrollment at 148 students.

Ms. Cogburn understands why the Bright From the Start License has increased to 190 students. She agrees with Mr. Greco that the impacts upon the neighborhood were substantial in 2022 and remain substantial now. The concerns of trees/ landscaping, lighting, trash, traffic, and safety, especially during the peak hours, should be addressed.

Mr. Friedlander stated that in 2022 the Bright From the Start license was issued for 148 students. Now, in 2023 the Bright From the Start license is for 190 students. He wants to know why this request would not be held to the same standard. A Board conversation continued noting that limiting the number of students to 148 was intentional. At the time, it was said that enrollment was at 128 students, so there was a vacancy for 20 more students.

Mr. McFarland stated that Bright From the Start requires 35 square feet per student within the classroom, which equates to the 190 students. He asked how the City regulates the students enrollment.

Ms. Krzic stated that the City would request the enrollment documents from Ms. Kabat to confirm. She also noted that Bright From the Start and the State Fire Marshal is the governing authority who sets the enrollment. The City's Fire Marshal sets the number of people allowed within the building capacity. So, the 190 student number refers to the enrollment of the child care center and the 256 number applies to the capacity of people who can be inside the building.

Mr. Greco believes that there is a lot of history on the property that has created the concern of trust. He does not believe that 30 additional students will generate more traffic. He does understand that the space occupied by the child care center was increased after the Church left the property. He believes the current request is reasonable if this was the starting point and not the third request. He believes that this is a compatible reuse for the building after the Church left. He would rather see this use than a large residential subdivision. He believes the board members would be promoting the use if there was a higher degree of trust.

Ms. Stein disclosed that her child previously attended the academy five years ago and that the curriculum is amazing. Yet, she is concerned with the increase of enrollment and the increase of distrust within the neighborhood. She does agree that she would not want this business in her neighborhood if they were not able to mitigate the traffic, improve the landscaping, and pick up the trash. She would support the request if there were conditions attached that address the resident concerns.

Mr. McFarland agrees with Ms. Stein that he can support the request only if several conditions were added to the conditional use permit. Those conditions could include resident only parking on the street, require recycling dumpster, tree replacement, landscape upgrades, lighting restrictions, and traffic control measures. If these measures are not mitigated, he is not comfortable recommending approval tonight.

Mr. Friedlander noted that if Ms. Kabat has owned the property and been able to occupy the entire building in 2022, the request would have been for an enrollment of 190 students. Since that was not the case, approving the increase of enrollment incrementally would be the right way to handle it. He agrees that attaching conditions upon the conditional use permit would be best route for approval.

The Board continued a discussion about possibly deferring the applications until a list of conditions could be crafted and agreed to by all parties involved. It was noted that Ms. Kabat would have to agree to the deferral. Ms. Kabat stated that the additional 30 students is currently for the summer camp. This would not increase traffic because the families are part of the academy. She is not sure if the space would be converted in the future to classrooms that would allow the same 30 students. To date, they have outgrown the space, but do not have the funding to build the addition or increase the enrollment over 300 students.

The board held a discussion about ensuring that any conditions attached to the site must be enforceable by the city. The Board is divided between recommending a denial or asking Ms. Kabat to request a deferral. It was further discussed that a conversation should be held with the neighbors and a list of agreed upon conditions be brought back to the Planning Commission. Of course, the cost of installing landscaping and other upgrades would also need to be considered.

In response to a question by Mr. Friedlander, Ms. Kabat stated that the traffic at Clairemont and Erie Avenues is not just coming from Smarties, but also from the elementary school. Ms. Kabat is open to speaking with the neighbors further; however, she does not hear the same concerns when she speaks to her neighbors directly. She strives to be a good neighbor and her door is always open to discuss any of the concerns. She is willing to speak with the neighbors yet needs to know the timeline for coming back to

the board. Her request is for enrolling students into a summer camp that would start when school is released at the end of May.

There being no further discussion Ms. Cogburn called for a motion on the request to modify the zoning condition.

Mr. McFarland made a motion to deny the modification of the zoning condition. It was seconded by Mr. Chilik. Prior to the vote, the Board discussed the one-year restriction from being able to apply again, if the City Commission would refer the request back to the Planning Commission, and previous deferrals that were done because the Board asked the applicant to provide a revised plan for the proposed development of a site.

Having no more discussion upon the vote, the motion was restated.

*On a motion by Mr. McFarland, seconded by Mr. Chilik, the Planning Commission recommended denial of the modification of the zoning condition. It was noted that the Applicant should seek further discussion with the community members to seek relief from the concerns of traffic, landscaping, and garbage collection. Rachel Cogburn, Marc Brambrut, Greg Chilik, Joe Greco, John McFarland, and Jenny Stein voted in favor of the recommendation of denial and Jason Friedlander voted against the recommendation of denial.*

Ms. Cogburn called for a motion on the request to modify the condition placed upon the conditional use permit.

*On a motion by Mr. McFarland, seconded by Mr. Chilik, the Planning Commission recommended denial of the modification of the condition placed upon the conditional use permit. It was noted that the Applicant should seek further discussion with the community members to seek relief from the concerns of traffic, landscaping, and garbage collection. Rachel Cogburn, Marc Brambrut, Greg Chilik, Joe Greco, John McFarland, and Jenny Stein voted in favor of the recommendation of denial and Jason Friedlander voted against the recommendation of denial.*

#### **Other Business.**

None

**Next Regular Meeting.** The next meeting will be held on May 14, 2024. Currently, there are no zoning applications submitted; however, there may be a text amendment for consideration. Ms. Krzic will advise if the meeting will be cancelled due to lack of items.

**Adjournment.** There being no other business, the meeting adjourned at 8:37 pm.

Consistent with the requirements of O.C.G.A. §50-14-1(e)(2)(B) these minutes were approved at the next regularly scheduled meeting on May 14, 2024 and made part of the record.

(DRAFT)

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Kc Krzic  
Planning & Zoning Manager  
Acting Secretary to the Planning Commission