



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item C
May 12, 2008

SUBJECT: Approval of Zoning Ordinance Text Amendment 18.223, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance at Section 2406, Planned Development Options to allow for modifications to allow additional uses within the RC District utilizing a PD-2, Planned Development Option and to address minor inconsistencies within the PD Section of the Ordinance.
Second Reading

SUBMITTING DEPARTMENT: Community Development Department - Planning *Bowling*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The attached proposed text amendment would alter Section 2406, Planned Development Options. It would allow for additional uses for properties within the RC District, utilizing a PD-2, Planned Development Option. There are also several clarifications and clean-ups throughout the ordinance, as noted below.

To facilitate the review of small changes to approved site plans, Section 2406.4.E is modified to indicate minor changes to a site plan may be reviewed administratively, similar to the ordinance standard in other districts. Examples of minor changes would include small building additions, changes to a landscape plan or parking lot layout.

Uses permitted in Section 2406.7.B are proposed to be expanded to allow indoor recreation centers, to broaden the category that was already present, which allows health clubs and racquet clubs. Fast food and fast carry-out establishments are being introduced as uses into the PD-2 option, to facilitate the redevelopment of the existing non-conforming McDonald's restaurant on the ring road of the Twelve Oaks Mall. Limitations to this use are recommended, including a minimum distance between these types of restaurants (1,000 feet on the same side of the road), a minimum site size (1.25 acres), and an emphasis on the standards for traffic circulation for these restaurants. The attached map highlights the existing McDonald's restaurant and indicates which properties would meet the minimum site size requirements and be more than 1,000 feet away from the existing restaurant. The map also shows free-standing restaurants currently located in the RC district, since the RC standard is consistent with the PD-2 1000 foot separation standard. In addition, the front yard setback for the PD-2 Option would be reduced from 75 feet to 50 feet to facilitate the development of the outlots around the mall's ring road.

A public hearing was held by the Planning Commission on April 2nd, 2008. At this meeting, the Planning Commission sent a recommendation of approval of the proposed text amendment to City Council. One change has been made. Originally, the text amendment called for a minimum site size of 1.5 acres for fast food restaurants. The existing McDonald's site would not meet this requirement and in order to avoid creating a non-conforming lot, the minimum site size for fast food restaurants has been reduced to 1.25 acres. An excerpt of the Planning Commission meeting minutes is attached.

This matter was approved by the City Council for a First Reading on April 21st, 2008. Concerns were raised regarding the possibility of the ordinance amendment allowing a proliferation of fast

food restaurants using the PD-2 option and whether this ordinance change was the best way to facilitate the redevelopment of the existing McDonald's.

The redevelopment of the existing Wendy's fast food restaurant on Novi Road several years ago was specifically cited as an example of a non-conforming use that was allowed to redevelop. Staff researched the Wendy's redevelopment and confirmed it was a permitted fast food restaurant reconstruction which was allowed because the existing restaurant was demolished and the new Wendy's restaurant was rebuilt within 6 months of the demolition on the same building footings as the previous restaurant. The proposed McDonald's would not be constructed on the existing restaurant footings so that ordinance provision would not apply in this case.

The map that is provided in the packets shows the areas that would be eligible for fast food restaurants under the amendments for the PD-2 option, and subject to the restaurant distance standards of the district. The RC district allows free-standing, sit down restaurants, spaced at least 1000 feet apart, but not fast food restaurants. We note that the Twelve Mile Crossing at Fountain Walk is zoned RC, but is not eligible for the PD-2 option, and therefore would not be eligible for consideration for any new fast food restaurants as the RC ordinance is written.

After additional research, it remains the opinion of the Community Development Department that the attached text amendment would be a reasonable ordinance amendment within the existing Planning Commission / Council framework of the PD-2 option ordinance, and would allow for the redevelopment of the existing McDonalds. We refer Council to the attached figure showing where fast food restaurants would be permitted under existing conditions if the text amendment were approved.

RECOMMENDED ACTION: Approval of Zoning Ordinance Text Amendment 18.223, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Section 2406, Planned Development Options to allow for modifications to allow additional uses within the RC District utilizing a PD-2, Planned Development Option and to address minor inconsistencies within the PD Section of the Ordinance. **Second Reading**

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Capello				
Council Member Crawford				
Council Member Gatt				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

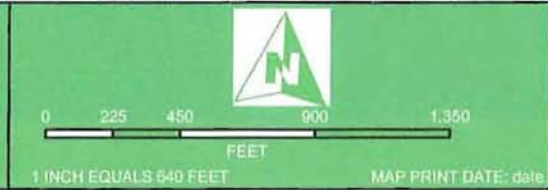
**AREAS WHERE RESTAURANTS
WOULD BE PERMITTED**

Text Amendment 18.223

Areas Where Fast Food Restaurants Would Be Permitted



CITY OF NOVI
DEPARTMENT OF COMMUNITY DEVELOPMENT
45175 W. TEN MILE ROAD
NOVI, MI 48375-3024
(248) 347-0415
MAP AUTHOR: Kristen Kapelanski, Planner



MAP INTERPRETATION NOTICE
Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

MAP PRINT DATE: date

**EXCERPT – DRAFT CITY COUNCIL MINUTES
APRIL 21, 2008**

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, APRIL 21, 2008 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

Mayor Landry called the meeting to order at 7:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Landry, Mayor Pro Tem Capello, Council Members Crawford, Gatt, Margolis, Mutch, Staudt

ALSO PRESENT: Clay Pearson, City Manager
Pamela Antil, Assistant City Manager
Tom Schultz, City Attorney
David Molloy, Chief of Police

APPROVAL OF AGENDA

Mayor Landry added a communication from Steve Moranti regarding storage of recreational vehicles, as Item #1 under Mayor and Council Issues.

CM-08-04-061 Moved by Gatt, seconded by Margolis; **CARRIED UNANIMOUSLY:**
To approve the agenda as amended.

Voice vote

MATTERS FOR COUNCIL ACTION – Part I

3. **Approval of Zoning Ordinance Text Amendment 18.223, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance at Section 2406, Planned Development Options to allow for modifications to allow additional uses within the RC District utilizing a PD-2, Planned Development Option and to address minor inconsistencies within the PD Section of the Ordinance. First Reading**

Mr. Pearson said the text amendment was recognizing the realities of some current developments that were looking to reinvest in some of the property in this Zoning District. However, without this ordinance change, they couldn't make that reinvestment. It was also cleaning up a couple of other minor changes in language and modernizing it. He said there was a positive recommendation from staff and the Planning Commission.

CM-08-04-065 Moved by Capello, seconded by Margolis; **CARRIED UNANIMOUSLY:**
To approve Zoning Ordinance Text Amendment 18.223, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance at Section 2406, Planned Development Options to allow for modifications to allow additional uses within the RC District utilizing a PD-2, Planned Development Option and to address minor inconsistencies within the PD Section of the Ordinance. First Reading

Mayor Pro Tem Capello said he did have a concern of opening this up to fast food/drive through restaurants but would reserve his comments until directly before the second reading.

Roll call vote on -08-04-065

**Yeas: Margolis, Mutch, Staudt, Landry, Capello,
Crawford, Gatt**

Nays: None

PROPOSED ORDINANCE AMENDMENTS – STRIKE VERSION

AN ORDINANCE TO AMEND ORDINANCE NO. 97-18, AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE, AT SECTION 2406, PLANNED DEVELOPMENT OPTIONS, SECTION 201, DEFINITIONS, AND 2505.14, OFF-STREET PARKING REQUIREMENTS TO ALLOW FOR MODIFICATIONS TO ALLOW ADDITIONAL USES WITHIN THE RC DISTRICT WITH A PD-2 OPTION.

THE CITY OF NOVI ORDAINS:

Part I. That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amended, is hereby amended at Section 2406 "Planned Development Options" which shall now read in its entirety as follows:

Sec. 2406. Planned Development Options.

1. *Intent.* The PD Planned Development Options contained herein are intended to provide for alternative means of land use development within designated zoning districts. The options contained herein shall be considered only within those areas of the City which are specifically designated for their application on the City's Master Plan for Land Use Map.

The land use patterns of alternative development under these options are further intended to be designed and laid out so as to create a desirable environment providing for the harmonious relationship between land use types with respect to: uses of land, the location of uses on the land and the architectural and functional compatibility between uses.

2. *Application.* Application for development under these options shall be made to the City in accordance with the following:

A. An application to develop under a PD Option shall be made to the Planning Commission for its review and recommendation to the City Council. The application shall be filed concurrently with a fully documented preliminary site plan. The preliminary site plan shall be completed in accordance with the review requirements as set forth and regulated in the City's Site Plan and Development Manual and subpart 4.A. of this Section.

B. In those instances where it is necessary to request rezoning in order to effectuate a PD Option an application to rezone shall be made to the Planning Commission for its review and recommendation to the City Council. The application for rezoning shall be completed in accordance with the City's Site Plan and Development Manual.

C. The Planning Commission may proceed simultaneously with review and recommendation on applications for rezoning, PD Option and preliminary site plan approval.

3. *Application Review.* The Planning Commission, upon receipt of an application to rezone and develop under an option as set forth in 2.A.B. above, or to develop under an option as set forth in 2.B.A. above, shall set a public hearing date for review of the

application. Notice of the public hearing shall be given and the hearing held as provided by the Zoning Enabling Act, P.A. 1921, 207, as amended. The Commission, in making its review, shall adhere to the conditions stated in Sections 2406.5A, 6.A. and 7.A.-8A, as applicable.

Upon receipt of the Planning Commission's recommendation, the City Council may grant the rezoning request provided it finds that the request meets the conditions outlined in Sections 2406.5A, 6.A. and 7.A., as applicable, provided, further, that the request to rezone and the PD Option to be implemented along with the accompanying Preliminary Site Plan, in the Council's opinion, carries out the intent of this Section as well as the overall intent of this Ordinance as set forth in its preamble. The City Council may proceed simultaneously with review and action on applications for rezoning, PD Option and preliminary site plan approval, with special land use consideration.

4. *Site Plan Review.* For the purpose of effectuating a PD Option, the Preliminary Site Plan, with accompanying rezoning application (if applicable), shall be reviewed by the Planning Commission for recommendation to City Council. In those instances where a request to rezone is not necessary in order to develop under a PD Option, a Preliminary Site Plan shall be submitted to the Planning Commission for its review and recommendation to the City Council.

A. *Preliminary Site Plan Review--Planning Commission.* The Planning Commission, in making its review of the Preliminary Site Plan, shall find that at least the following conditions are met:

- (1) The plan meets all the requirements of Section 2516 of this Ordinance for Preliminary Site Plans and the requirements set forth in the City's Site Plan and Development Manual.
- (2) The plan satisfies the intent of the Special Land Use provisions as stated in Section 2516.2.c.
- (3) The Community Impact Statement and Traffic Study are provided, regardless of site size, in accordance with the requirements set forth in the City's Site Plan and Development Manual.
- (4) The plan satisfies the intent of this Section with respect to use of land and principal and accessory use relationships within the site as well as with uses on adjacent sites.
- (5) That all existing or proposed streets, roads, utilities and marginal access service drives, as are required, are correctly located on the site plan in accordance with the approved plans for these improvements.
- (6) The plan meets all the applicable standards of this Ordinance relative to height, bulk and area requirements, building setbacks, off-street parking and preliminary site engineering requirements.
- (7) That there exists a reasonably harmonious relationship between the location of buildings on the site relative to buildings on lands in the surrounding area; that there is a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area to assure proper relationships between:

- (a) The topography of the adjoining lands as well as that of the site itself including any significant natural or manmade features.
- (b) The relationship of one building to another whether on-site or on adjacent land, i.e., entrances, service areas and mechanical appurtenances.
- (c) The rooftops of buildings that may lie below street levels or from the windows of higher adjacent buildings.
- (d) Landscape plantings, off-street parking areas and service drives on adjacent lands.
- (e) Compliance with street, road and public utility layouts approved for the area.
- (f) The architecture of the proposed building(s) including overall design and facade materials used. Architectural design and facade material are to be complimentary to existing or proposed buildings within the site and the surrounding area. It is not intended that contrasts in architectural design and use of facade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.

B. *Preliminary Site Plan Approval--City Council.* The City Council shall review the Preliminary Site Plan with regard to the Planning Commission's recommendation and the review requirements and conditions set forth in 4.A. of this Section. The City Council shall approve the Preliminary Site Plan provided all the conditions as set forth in 4.A. of this Section are met, as well as the standards of Section 2516.2.c.

As part of its approval of the Preliminary Site Plan, the Council is authorized to impose conditions that are reasonably related to the purposes of this section and that will:

- (1) Insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity;
- (2) Protect the natural environment and conserving natural resources and energy;
- (3) Insure compatibility with adjacent use of land; and
- (4) Promote the use of land in a socially and economically desirable manner.

All conditions imposed shall be made a part of the record of the approval of the Preliminary Site Plan.

C. *Approved Preliminary Site Plan.* Once the Preliminary Site Plan has been approved by the City Council, no development shall take place therein nor use made of any part thereof except in accordance with the approved plan or in accordance with an approved amendment thereto.

Approval of the Preliminary Site Plan by the City Council shall give direction to the applicant to proceed with development of the Final Site Plan.

D. *Final Site Plan Approval.* A Final Site Plan shall be prepared and submitted by the applicant for approval. Review and approval shall be administrative unless the City Council requests that the final site plan be submitted to it for review. The Final Site Plan shall:

- (1) Conform with the Preliminary Site Plan and meet the conditions as set forth in 4.A. of this Section.
- (2) Contain all the requirements as set forth in Section 2516 of this Ordinance and the requirements set forth in the City's Site Plan Procedures Manual.
- (3) Include plans and drawings illustrating, in detail, all physical layouts as indicated on the approved Preliminary Site Plan, as well as building elevations of all building walls, including a legend detailing facade materials, landscaping plans and any other physical plan details such as lighting, signs, etc. being proposed. Supporting documentation in the form of building plans and schedules of construction may also be requested.
- (4) The dedication of public rights-of-way or planned public open spaces, where proposed on the site plan or as may be otherwise required, shall have been made.
- (5) In residential use areas, any prorated open space has been irrevocably committed and retained as open space for park, recreation and related uses, and that all such lands meet the requirements of the City.
- (6) Where applicable, marginal access road easements or rights-of-way have been provided.
- (7) Money or other forms of credit satisfactory to the City had been submitted for the ultimate removal of any direct access points to major thoroughfares and guaranteeing construction of the marginal access road.
- (8) The Final Site Plan clearly and undeniably states that any and all direct access points to a major thoroughfare, where access is ultimately to be made via a marginal access drive, is temporary access and will be removed upon opening of the marginal access drive across the site.

E. *Site Plan Revisions.* Revisions to an approved Preliminary Site Plan shall require resubmittal of plan revisions to the City for review. Such revisions shall be resubmitted to the Planning Commission and City Council for review and approval, except those revisions permitted to be reviewed administratively under Section 2516.1.c. Revisions requiring Commission and Council review shall include physical changes to the exterior building wall facade materials or physical alterations that will change the appearance of a building.

The Planning Commission and City Council, in making a review of a revised site plan, shall find that any such revisions forwarded to them for review and

approval, meet all the minimum requirements of this Section, including its general intent.

Revisions to an approved Final Site Plan shall require resubmittal of plan revision to the City for administrative review, unless the City Council has requested that the Final Site Plan be submitted to it for review.

F. Site Plan Approval Limitations. Approval of a Preliminary Site Plan shall be effective for a period of one (1) year from date of approval by the City Council, within which time period the applicant shall obtain final site plan approval. Approval of a Final Site Plan shall be effective for a period of two (2) years from date of approval, within which time the applicant shall obtain building and other necessary permits and commence construction.

Development shall be in accordance with such time limits unless an extension is requested and granted by the City Council.

5. *Deviations from area, bulk, yard, and dimensional requirements.* As part of approval of a Preliminary Site Plan, the City Council shall be authorized to grant deviations from the strict terms of the zoning ordinance governing area, bulk, yard, and dimensional requirements applicable to the property; provided, however, that such authorization to grant deviations shall be conditioned upon the Council finding:

- (1) that each zoning ordinance provision from which a deviation is sought would, if the deviation were not granted, prohibit an enhancement of the development that would be in the public interest;
- (2) that approving the proposed deviation would be compatible with the existing and planned uses in the surrounding area;
- (3) that the proposed deviation would not be detrimental to the natural features and resources of the affected property and surrounding area, or would enhance or preserve such natural features and resources;
- (4) that the proposed deviation would not be injurious to the safety or convenience of vehicular or pedestrian traffic; and
- (5) that the proposed deviation would not cause an adverse fiscal or financial impact on the City's ability to provide services and facilities to the property or to the public as a whole.

In determining whether to grant any such deviation, the Council shall be authorized to attach reasonable conditions to the Preliminary Site Plan, in accordance with Section 2406.4.B.

6. *(PD-1) Planned Development Option.* The PD-1 Planned Development Option is designed to encourage development of specific types of residential land use within the RM-1 Multiple-Family Residential Districts in those designated areas of the City's Master Plan for Land Use and which would be in substantial accord with the goals and objectives of that plan. The intent of this option is to permit the application of mid-rise, higher density multiple dwelling structures in a district otherwise restricted to low-rise, lower density residential use:

A. In considering a request to rezone land to a district in which the PD-1 Option is permitted, the Commission may recommend approval of the request to the City Council only after the Commission finds that:

- (1) The parcel of land requested for rezoning to an RM-1 District lies substantially within an area depicted on the City's Master Plan for Land Use Map for development under a PD-1 Option.
- (2) The request to rezone is being made with the intent of developing uses under the PD-1 Option.
- (3) The area being requested for rezoning is either fully served by public utilities, including water and sanitary sewer, or will be fully served through the extension of such public utilities to the site at the time of development.
- (4) The area requested for PD-1 Option development demonstrates suitable road traffic capacity/access for the expected higher density housing at the time of development.
- (5) The PD-1 Option development reflects an opportunity to preserve existing environmental resources onsite through development of multi-story construction and underground or first floor parking vs. two (2) story construction and surface parking.
- (6) The development will not be contrary to established land use patterns.
- (7) The requirements for special land uses contained within Section 2516.2(c) are satisfied.
- (8) The development will not adversely impact the City's ability to deliver and provide public infrastructure and public services at a reasonable cost and with regard to the planned and expected contribution of the property to tax base and other fiscal considerations

B. Application for development under this option shall conform to all the submittal requirements of this Section. Under this option, no building or land shall be used and no building shall be erected except for one or more of the following specified uses:

- (1) All uses permitted and as otherwise regulated in the RM-1 District.
- (2) Mid-rise multiple-family dwellings.
- (3) Retail, commercial uses and office uses provided the following conditions are met:
 - (a) Such uses shall be permitted within mid-rise structures only;
 - (b) Any retail or office uses on the site shall be clearly accessory to the principal use and shall be intended and designed to service only the residents of the principal use;
 - (c) Such uses shall be contained totally within the walls of a principal building and shall be totally obscured from any exterior view. No identification sign shall be visible from any exterior view; and
 - (d) Such uses shall not exceed twenty-five (25) percent of the gross floor area at grade level, or more than fifty (50) percent of the gross floor area of a subgrade level, and shall be prohibited from any level above the first floor.

(4) For those uses exceeding the maximum permitted height limitation of the RM-1 District, the following requirements shall apply:

(a) No structure shall be less than three (3) nor more than five (5) stories in height, except that in the case of low-rise, low-density multiple-family dwellings, two and one-half (2 1/2) story structures may be permitted, provided at least one (1) complete wall with fenestrations from the lower living level shall be fully exposed;

(b) For the purposes of computing dwelling unit density, the total number of rooms eighty (80) square feet or more (but not including kitchen, dining and sanitary facilities) shall not be more than the area of the parcel in square feet divided by seven hundred (700). Community water and sewer must be available. All units shall have at least one (1) living room and one (1) bedroom, except that up to ten (10) percent of the total number of units in a building may be of an efficiency apartment type;

(c) For the purposes of computing the permitted number of dwelling units per acre, the room assignments (bedroom to total room ratio) of Section 2400, footnote (d), shall apply;

(d) For those structures exceeding the maximum height limitations of the District, the minimum yard setbacks shall be equal to the setback requirements of the District, plus one (1) additional foot of setback shall be provided for each foot the building exceeds the maximum height limitation of the district, except that where a lot line abuts a public street, one-half (1/2) the width of the right-of-way of said street may be considered as yard setback, but in no instance shall any such setback be less than fifty (50) feet;

(e) A minimum yard setback of one hundred (100) feet shall be provided from any lake shoreline including natural or manmade water bodies. Stormwater retention facilities shall be considered as shoreline when they are designed and developed as an integral part of the site's landscaped open space. The area of said setback may be utilized in the computation of density but shall not be used for off-street parking or accessory buildings. Said yard area shall be used for open space, recreation, beach facilities and similar uses;

(f) For the purposes of determining the location of off-street parking with respect to buildings and the minimum distance between buildings, the applicable requirements of Section 2400, footnote (e), shall apply; and

(g) Off-street parking shall be provided as required in Section 2505 of this Ordinance and shall be laid out in accordance with the requirements of Section 2506 of this Ordinance.

7. *(PD-2) Planned Development Option:* The PD-2 Planned Development Option is intended to encourage development of intensive major nonresidential land use types and

transitional mixed-use buildings with residential components land use types not otherwise permitted in the RC Regional Center districts. The Option is designed to encourage development within those land areas in substantial accord with the goals and objectives of the City's Master Plan for Land Use. The further intent of this option is to permit the limited application of (i) more extensive commercial uses in a district otherwise restricted to community and regional oriented shopping centers or (ii) transitional uses on the periphery of regional oriented shopping centers:

A. In considering a request to rezone land to a district in which the PD-2 Option is permitted, the Commission may recommend approval of the request to the City Council only after the Commission finds that:

- (1) The parcel of land requested for rezoning to RC District lies substantially within an area depicted on the City's Master Plan for Land Use Map for development under a PD-2 Option.
- (2) The request to rezone is being made with the intent of developing uses under the PD-2 Option.
- (3) The area being requested for rezoning is immediately adjacent to like or similar zoning so as not to create unrelated penetrations of nonresidential districts into residentially zoned areas.
- (4) The area requested for rezoning is either fully served by public utilities, including water and sanitary sewer, or will be fully served through the extension of such public utilities to the site at the time of development.
- (5) The area requested for PD-2 Option development demonstrates suitable road traffic capacity/access and utility services for the expected high density commercial type uses and/or higher density mixed-use buildings with residential type uses at the time of development.
- (6) The development will not be contrary to established land uses patterns.
- (7) The requirements for special land uses contained within Section 2516.2(c) are satisfied.

B. Application for development under this Option shall conform to all the submittal requirements of this Section. Under this Option, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

- (1) Convention centers including motels, motor hotels, auditoriums, theaters, assembly halls, concert halls or similar places of assembly, and related accessory uses when included as an integral part of the center;
- (2) Planned commercial centers containing at least one hundred fifty thousand (150,000) square feet of gross leasable floor area;
- (3) Entertainment centers such as theaters, health clubs and racquet clubs and other indoor recreation centers;
- (4) Retail commercial uses except fast food sit-down, drive-in or carry out restaurants, provided such retail commercial uses shall have a gross leasable floor area of fifty thousand (50,000) square feet and shall be contained wholly within a building with no outdoor sales, display, storage of goods or materials;

(5) Banquet halls, and sit-down restaurants, and the following types of fast food restaurants: fast food carryout, fast food drive-through and fast food sit-down restaurants, except drive-in, fast food and fast food-carry out establishments provided the following conditions are met:

(a) When restaurants are independently freestanding uses and not attached to or otherwise clearly accessory to a principle use, they shall be located no closer than one thousand (1,000) feet from any other such use on the same side of the street;

(b) Minimum parcel size shall be 1.25 acres.

(c) The site plan shall be designed to achieve traffic circulation features both within the site and in relation to access streets that assure safety and convenience of both vehicular and pedestrian traffic.

(6) Office buildings for executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and allied uses;

(7) Retail commercial uses provided all such business uses are located on subfloors below grade on the ground floor or ground floor mezzanine only; and

(8) Mixed-use buildings with residential components on properties adjacent to a use or zoning district other than the RC District, subject to the following:

(a) All buildings shall consist of any single use or combination of uses that are principal permitted uses of the B-1, B-2, or OSC zoning district, and all buildings shall have an attached residential component. In no instance shall the gross floor area of the retail/office component of a mixed-use development comprise more than twenty (20%) of the total floor area of the building. The regulations applicable to the RM-2 District with respect to density shall apply to the residential component;

(b) The ground floor of the building shall not contain any residential use except for customary indoor ancillary uses to multiple family dwellings including, but not limited to, lobbies, hallways, leasing offices, garages, residential storage, swimming pools and ancillary uses. For purposes of this section, "ground floor" shall be defined as a floor, or portion thereof, where the exterior finish grade adjacent to the floor is no more than four (4') feet below the finish floor elevation;

(c) Subject to the percentage limitations of subsection (a) above, upper stories may be used for any use as permitted in Section 2406.6.B.(8).(a), above, provided that no commercial or office use shall be located on a story above a residential use (not including ancillary uses to residential uses).

(d) In addition to the requirements of Section 2406.4.A, the applicant for a mixed-use building must demonstrate the following:

(i) The development will result in a recognizable and substantial benefit to the ultimate users of the project and to

the community, where such benefit would otherwise be unfeasible or unlikely to be achieved.

(ii) Based upon the proposed uses, layout, and design of the overall project, the proposed building facade treatment, the proposed landscaping treatment, and the proposed signage, the development will result in a material enhancement to the area of the City in which it is situated.

(iii) In relation to underlying zoning, the proposed development will not result in an unreasonable negative economic impact upon surrounding properties.

(iv) Each particular proposed use in the development, as well as the quantity and location of such use, shall result in and contribute to a reasonable and mutually supportive mix of uses on the site, and a compatibility of uses in harmony with the surrounding area and other downtown areas of the City, and shall reflect innovative planning and design excellence.

(v) The proposed development shall be under single ownership and/or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership and/or control, upon due notice to the City Clerk, provided that the transfer is to a single person or entity, as required in the first instance.

(vi) Streetscape amenities shall be included as part of a mixed-use building. The use of decorative, pedestrian-scale parking lot lighting, public pathways, and other similar features shall be an integral part of any site plan. Amenities shall include lighting, landscape plantings, and other amenities that reflect a consistent residential theme, and all shall comply with the provisions set forth in Section 1602.7 and Section 1607.14. All such amenities shall be privately owned and maintained.

(9) Accessory uses customarily ancillary to the above permitted uses.

C. The maximum permitted building height of the RC Regional Center District shall apply to all uses under the PD-2 Option.

D. The minimum front, side, and rear yard setback requirements for all principle uses permitted under this Option, shall be as follows:

TABLE INSET:

Front yard setback	7550 feet(1)
Side yard setback(s)	35 feet (2)

	(total of two 70 ft.)
Rear yard setback	35 feet

- (1) Wherever a marginal access service drive shall be required in accordance with the approved plan, the front yard setback shall be measured from the interior right-of-way line of the service drive; and
- (2) In the case of an exterior side yard, the setback requirement of the front yard shall apply including all off-street parking and greenbelt requirements. Off-street parking shall be provided as set forth and regulated in Section 2505 of this Ordinance, except that off-street parking shall be permitted within any yard to a point twenty (20) feet from the front or exterior side yard property line and to a point ten (10) feet from any interior side and rear property line.

E. Landscaping throughout the site shall be provided as set forth and regulated in Section 2509 of this Ordinance.

F. In those instances where the Planning Commission and City Council determines that marginal access service drives will not be necessary, off-street parking may be permitted in the front yard to a point twenty (20) feet from the proposed thoroughfare right-of-way line.

In determining that marginal access service drives will not be needed, the Planning Commission and City Council shall find that:

- (1) The extent of frontage on a major thoroughfare consumed by the site in question is such that the number of access points from the site directly to the thoroughfare will be no more than and/or will have no greater impact on the thoroughfare than if access were provided via a marginal access drive;
- (2) The function of any existing or proposed marginal access service drives adjoining the site in question will not be adversely affected by not continuing such drives on the site in question; and
- (3) The extent of thoroughfare frontage is such that the need for marginal access service drives beyond the site in question will either no longer be needed or can be effectively developed independently of the site in question.

8. *Appeals* . The Zoning Board of Appeals shall have no jurisdiction to hear appeals or make interpretation or any other decisions regarding this Section or a proposed Preliminary Site Plan.

(Ord. No. 97-18.135, Pt. I, 9-22-97; Ord. No. 99-18.153, Pt. VI, 12-6-99; Ord. No. 99-18.156, Pt. IX, 12-20-99; Ord. No. 02-18.171, Pt. I, 12-16-02; Ord. No. 2005-18.198, Pt. II, 8-22-05)

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. This amendment 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.

Part IV. Repealer. All other Ordinances or parts of Ordinances 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 4 of Act 207 of the Public Acts of 1921, as amended, the provisions of this Ordinance shall become effective fifteen (15) days after its adoption and 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.

MADE, PASSED AND ADOPTED BY THE NOVI CITY COUNCIL THIS
____ DAY OF _____, 2008.

DAVID LANDRY – MAYOR

MARYANNE CORNELIUS – CITY CLERK

1. Date of Public Hearing _____
2. Date of Adoption _____
3. Date of Publication of
Notice of Adoption _____

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing is true and complete copy of the Ordinance passed at the _____ meeting of the Novi City Council held on the _____ day of _____, 2008.

MARYANNE CORNELIUS – CITY CLERK