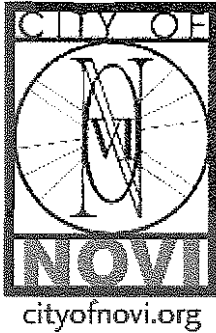


# MEMORANDUM



TO: Members of the Planning Commission  
FROM: Barbara <sup>Bundy</sup> McBeth, AICP, Community Development  
SUBJECT: Set a Public Hearing for text amendments  
DATE: March 7, 2008

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The Planning Division respectfully requests the Planning Commission set three public hearings for the April 2<sup>nd</sup> Planning Commission meeting for text amendments related to three sections of the ordinance.

The first section to be modified is Section 3004, Temporary Special Exception and Temporary Special Land Use Permits. The ordinance has been modified recently to address concerns related to changes in the State law and to the application of the ordinance with respect to procedures in the Building Division. With these recent changes to the ordinance, we have attached Section 3004 as it was recently approved. Additional modifications are needed to clarify the ordinance in light of certain aspects of the State Law, provide modifications for tent and outdoor special events and for administration of the ordinance by city staff.

The second ordinance modification relates to changes to the RC, Regional Center District, Article 17, and the related, Planned Development Option, PD2 Section of the ordinance, found in Section 2406. Several questions have come up recently about the RC district, as identified the recent review of the Best Buy store, related to building setbacks, application of the PD2 standards, and special land use consideration. Additionally, staff attended a concept meeting and a pre-application meeting for a possible reconstruction of the existing McDonald's restaurant, also within the RC district and eligible for the PD-2 option, but which is facing redevelopment difficulties due to its non-conforming use status. Staff and the attorney's office would like to take this opportunity to review the relevant ordinance sections in total and set the public hearing for ordinance amendments to be considered at a public hearing on April 2.

The third text amendment relates to sign ordinance changes, which has been reviewed recently by the Ordinance Review Committee, relating to changeable copy, sign area and design in TC-1 district, as well as signage for free standing restaurants. These changes are also ready to be considered by the Planning Commission at a public hearing, and the department respectfully requests that these amendments be set for a public hearing for April 2.

Please contact the department if there are any questions about this matter.

Sec. 3004. Temporary Special Exception and Temporary Special Land Use Permits.

1. The Building Official, or his designee, shall have the power to grant permits authorizing temporary special exceptions for:

a. Tent sidewalk, or flower/plant sales, and seasonal sales of produce, firewood, or Christmas trees, under the following conditions:

(1) *Zoning Districts Where Permitted.* Temporary special exceptions for tent sidewalk, or flower/plant sales that are accessory to a permitted principal retail use of a property, and seasonal sales of produce (i.e., fruits and vegetables), firewood, or Christmas trees, shall be permitted in OSC Office-Service-Commercial Districts, B-1 Local Business Districts, B-2 Community Business Districts, B-3 General Business Districts, I-1 Light Industrial Districts, I-2 General Industrial Districts and P-1 Vehicular Parking Districts. In addition, temporary special exceptions for seasonal sales of produce or of Christmas trees shall be permitted on parcels of three (3) acres or more in any residential district and temporary special exceptions for tent sales, sidewalk sales and seasonal sales of Christmas trees shall be permitted in the RC Regional Center District.

(2) *Application; Fee; Submission of Plot Plan.* Every person, firm, or corporation desiring to obtain a temporary special exception permit as required by this Ordinance shall file a written application with the Department of Building and Safety on a form approved by the Department, together with an application fee as is hereafter provided by resolution of City Council. An application, together with the required fee, shall be filed by the owner of the land. The individual or entity who will conduct the use, if different from the owner, shall also comply with the provisions of Chapter 8, Business Registration, of the City Code of the City of Novi.

The application for a temporary special exception permit shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

(i) The shape, location and dimensions of the lot, including the shape size and location of all buildings or other structures already on the lot, off-street parking layout, and the location of any designated fire lanes.

(ii) The materials to be utilized in and the shape, size, and location of all buildings and structures to be erected or moved onto the lot, including all tents, tables, stands, or display racks.

(iii) The anticipated automobile traffic flow to and from the lot and any adjacent thoroughfares, loss of off-street parking spaces, if any, as well as the anticipated flow of pedestrian traffic upon lot sidewalks.

- (iv) For temporary tent, sidewalk, or flower/plant sales, an acknowledgement that outdoor sales shall be operated by and maintained under the same ownership as, or subject to the control of, the property owner and on the parcel as the principal use.

(3) *Time Limitations.*

- (i) A temporary special exception permit for a tent, sidewalk, or flower/plant sale shall be effective for no longer than fifteen (15) days. No more than three (3) such sales shall be permitted in any calendar year. No more than fifteen (15) total days of such sales shall be permitted in any calendar year. A separate permit is required for each separate sale.
- (ii) A temporary special exception permit for the sale of Christmas trees shall by its terms be effective for no longer than thirty (30) days. No more than one (1) temporary special exception permit for the sale of Christmas trees shall be issued for any given location within a single calendar year.
- (iii) A temporary special exception permit for a vegetable, fruit or produce stand (other than flowers/plants) or for the sale of firewood, shall, by its terms, be effective for no longer than three (3) months. No more than one (1) temporary special exception permit for a vegetable, fruit or produce stand, or for the sale of firewood, shall be issued for any given location within a single calendar year.

(4) *Regulations.*

- (i) A temporary special exception permit shall only be granted if the Building Official or his designee determines that the proposed use, including the erection of any temporary building or structure, will:
  - (a) Provide adequate automobile and pedestrian traffic flow.
  - (b) Provide adequate off-street parking.
  - (c) Provide adequate lot access for fire protection purposes.
  - (d) Not adversely affect the stability and integrity of the zoning plan prescribed by this Ordinance or otherwise interfere with the protection of public health, safety and general welfare.
  - (e) Not be incompatible with or otherwise adversely affect the physical character of the community and, in particular, the surrounding area within a distance of one thousand (1,000) feet.
- (ii) The proposed temporary special exception shall comply with all applicable zoning regulations for the district in which the temporary special exception is to be located,

including all requirements pertaining to lot size, height, setback, open space ratio, maximum percentage of covered lot area, and off-street parking.

- (iii) No temporary special exception shall be permitted if it reduces the parking by greater than twenty-five (25) percent.
- (iv) All temporary buildings and structures shall be constructed, used, occupied and maintained so as to be in compliance with the provisions of the State Construction Code and all applicable ordinances of the City of Novi.

(5) *Deposit Required for Temporary Sale of Christmas Trees.* The Building Official or his designee shall require any person, firm, or corporation granted a temporary special exception permit for the sale of Christmas trees or firewood to deposit a sum of money in an amount as set by resolution of City Council with the Department of Building and Safety to guarantee the cleaning of the lot and any abutting private or public property and the disposal of any remaining trees or firewood by an approved method within one (1) week after the permit expiration date.

b. The temporary location of a temporary or premanufactured building in connection with the development of a property or construction of buildings thereon, including in residential developments irrespective of the requirements of Section 302 of this Ordinance, provided:

- (1) The use shall be limited to construction offices or trailers and offices for the specific purpose of selling lots or new homes to be erected in a residential development or in connection with the construction of nonresidential building improvements if such separate offices are reasonably necessary.
- (2) All applicable building height, bulk and area requirements of the district are met.
- (3) If the structure is used for the purpose of selling lots or new homes it shall be removed from the subdivision upon completion of the first permanently built model home intended for display. If the structure is used for construction offices then it shall be removed within the time period provided for in the permit.
- (4) The building official shall impose such conditions on the manner and extent of the proposed use as are necessary to protect the health, safety and general welfare of the people.

2. The Building Official, or his designee, shall have the power, upon application, to grant permits authorizing temporary special land uses for:

- a. Temporary buildings and uses for periods not to exceed two (2) years on undeveloped parcels within the city and for periods not to exceed twelve

(12) months on developed parcels, with the granting of a twelve (12) month extension being permissible, provided the conditions set forth in section 3004.3 below, are met.

- b. Temporary uses, not otherwise permitted in any district, not to exceed twelve (12) months with the granting of twelve (12) month extensions being permissible that do not require the erection of any capital improvements of a structural nature, provided the conditions set forth in section 3004.3 below, are met.
- c. Portable concrete batching plants, subject to the following conditions:
  - (1) Review and approval of the request by a committee consisting of the Building Official, City Engineer, and Director of Public Works ("Committee"), who may grant approval upon finding that the presence of the batching plant is reasonably necessary for the development of the site where it is to be located. The supplying of concrete to other sites may be permitted by the Committee subject to limitations imposed to minimize adverse impacts upon adjacent and neighboring parcels of land.
  - (2) Time limits shall be imposed by the Committee, both as to the hours of operation and the length of time the batch plant may remain at the site. In no instance shall the batch plant be permitted to remain on the site longer than reasonably necessary to complete the on-site paving work.
  - (3) Limitations shall be imposed as to permitted haul routes for all vehicles associated with the batch plant operation.
  - (4) The Committee shall impose any restrictions deemed necessary to insure the control of noise and dust at and around the batch plant site.
  - (5) The Committee shall require the posting of a cash bond, with the City of Novi in an amount that will guarantee:
    - (i) The removal of the plant and restoration of the site to a satisfactory condition, including the removal of any washings or hardened concrete;
    - (ii) The providing of dust control at the site and on streets and roads utilized, so as to prevent any nuisance to the surrounding area;
    - (iii) The providing, when weather and site conditions necessitate, of daily street cleaning to remove dirt, mud and other debris from streets and roads;
    - (iv) That vehicles adhere to any limitations imposed as to haul routs; and
    - (v) The prevention of any damage to public streets and roads by vehicles associated with the batch plant operation.

- (6) Such cash bond shall be deemed forfeited upon the failure of the operator to comply with any of the conditions imposed by the Committee for operation of the batch plant. If a bond is forfeited, all operations shall cease until such time as an additional bond is set by the City and posted by the operator, and the operator has remedied the problem that resulted in the forfeiture of the bond.
3. The granting of permits for the above temporary special exceptions and special land uses in section 1 and 2 above, shall be under the following conditions:
  - a. The granting of the temporary exception or use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary exception or use is permitted.
  - b. The granting of the temporary exception or use shall be granted in writing stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.
  - c. All setbacks, land coverage, off-street parking, lighting and other requirements of the district shall be met; and
  - d. In classifying uses as not requiring capital improvement, the Building Official or his designee shall determine that they are either demountable structures related to the permitted use of land; recreation developments, such as but not limited to golf driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems or sanitary connections.
4. Permit, upon proper application, the following character of temporary use, not otherwise permitted in any district, not to exceed twelve (12) months with the granting of twelve (12) month extensions being permissible; uses which do not require the erection of any capital improvements of a structural nature, provided the conditions set forth in Section 3004.6 below, are met.
5. For any temporary special land use permitted in section 2 above, notice of the request shall be sent out as required in Section 103 of Act 110 of the Public Acts of 2006, as amended. The notice shall indicate that a public hearing on the application may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for the special land use, regardless of whether the property or occupant is located in the zoning jurisdiction.