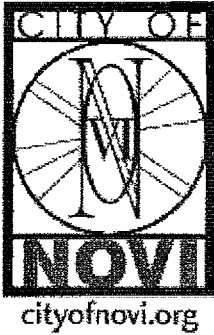


MEMORANDUM



TO: MEMBERS OF THE PLANNING COMMISSION
FROM: KRISTEN KAPELANSKI, PLANNER
THRU: BARBARA MCBETH, COMMUNITY DEVELOPMENT
SUBJECT: TEXT AMENDMENT 18.242 OUTDOOR SALES OF PRODUCE AND PLANT MATERIAL IN THE TOWN CENTER DISTRICTS (PLANNING COMMISSION MEETING DATE: 05/26/10)
DATE: MAY 17, 2010

Attached you will find a proposed ordinance amendment submitted by Matthew Quinn representing the Novi Town Center that would make open air business uses (for the sale of plant material, lawn furniture, playground equipment and garden supplies) and the outdoor sale of produce and plant material special land uses in the Town Center Districts. The proposed amendment includes a number of conditions for approval as noted in the planning review memo. The Planning Commission considered a similar text amendment allowing the outdoor sale of produce and plant material in the B-2, B-3 and RC Districts in December of 2008 and the amendment was ultimately approved by the City Council on January 26, 2009.

Staff has completed a review of the proposed amendment and recommends approval with some suggested modifications. Attached please find the planning review, the applicant proposed version of the amendment and a version incorporating staff's recommendations. Staff is still working on finalizing the exact language of the amendment and minor modifications are likely to be made prior to the public hearing.

Staff is working with the applicant to address the screening of open air business uses and has proposed screening consist of a six foot masonry screen wall topped with decorative metal fencing. The total screen wall height should be one foot higher than the material to be stored. Attached please find examples of garden center screening in the area.

The Planning Commission is asked to set a Public Hearing for the ordinance amendment on June 23rd. At that time the Commission will hold the public hearing and forward a recommendation to the City Council, for reading and adoption. If any Commissioner has any questions related to this request, do not hesitate to contact Kristen Kapelanski, in the Community Development Department at (248) 347-0586.

PROPOSED ORDINANCE AMENDMENTS – STAFF VERSION

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 10- 18 – 242

AN ORDINANCE TO AMEND ORDINANCE NO. 97-18, AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE, ARTICLE 16, TC AND TC-1 TOWN CENTER DISTRICTS; IN ORDER TO PROVIDE STANDARDS FOR THE SALE OF OUTDOOR PRODUCE AND PLANTS IN THE TOWN CENTER DISTRICT.

THE CITY OF NOVI ORDAINS:

Part I.

That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amended, Article 16, TC and TC-1 Town Center Districts, is hereby amended to add a new Section 1602, Principal Uses Permitted Subject to Special Conditions, and to renumber existing Section 1602:

ARTICLE 16. TC AND TC-1 TOWN CENTER DISTRICTS

Section 1600 – Section 1601. [Unchanged.]

Section 1602. Principal Uses Permitted Subject to Special Conditions

The following uses shall be permitted by the City Council, following review and recommendation of the Planning Commission subject to the conditions hereinafter imposed for each use and subject to the additional requirements of Section 2516.2(c) for special land uses. There shall be held a public hearing by the Planning Commission in accordance with the requirements set forth and regulated in Section 3006 of this Ordinance. Notwithstanding the restrictions for outdoor sales found in Section 1601.1.a and 1601.2.a(1), limited outdoor sales may be permitted as follows.

1. Open air business uses when developed in planned relationship to shopping centers in the TC and TC-1 District as follows:

- a. Retail sales of plant material and sales of lawn furniture, playground equipment and garden supplies provided that such uses shall be located outside of the building wall and in the designated side or rear yard and shall meet all setback requirements of the district. The storage or display of any materials or products relating to the above permitted items, shall be contained so as to prevent any adverse effects on adjacent areas and surrounding land uses. A masonry screen wall equal to a minimum of six (6) feet in height with decorative metal fencing above the masonry screen wall or other suitable screening materials to match the existing facade with a total height equal to one foot higher than the material to

be offered for sale shall be provided. A noise impact statement is required subject to the standards of Section 2519.10(c).

2. Outdoor sale of produce and seasonal plant materials outdoors, provided such use is incidental to a similar principal use indoors and adjacent to and adjoining the building of the principal use, subject to the following conditions:

- a. Outdoor sales areas shall comply with all applicable building and fire codes and shall be reviewed and approved by the Building Division.
- b. Outdoor sales areas shall be located in a manner to maintain a minimum pathway width of 6 feet (clear of structures such as light poles, trees and hydrants) along the sidewalk so as not to interfere with pedestrian traffic.
- c. The hours of operation for an outside sales area shall be consistent with the hours of operation of the principal use.
- d. Outdoor sales areas shall not occupy required parking spaces or drive aisles and/or required landscaping areas and shall be located on a paved surface.
- e. Outdoor sales areas shall not constitute part of the open space requirements of Section 1602.8.
- f. Parking for outdoor sales areas shall be provided as required for comparable interior retail sales areas.

Section 16023. Required Conditions

1. – 16. [Unchanged.]

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 _____, 2010.

DAVID LANDRY, MAYOR

MARYANNE CORNELIUS, CITY CLERK

Ayes:
Nays:
Abstentions:
Absent:

PROPOSED ORDINANCE AMENDMENTS – APPLICANT VERSION

LAW OFFICES
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OF COUNSEL:
CHARLES Y. COOPER
ARNOLD J. SHIFMAN

REPLY TO ROYAL OAK OFFICE

March 23, 2010

Community Development Department
City of Novi
45175 West Ten Mile Road
Novi, MI 48375

RE: Proposed Text Amendment to Zoning Ordinance for the TC District

To the Community Development Department:

On behalf of my client, Novi Town Center Investors LLC, I am seeking to request the City to begin the process of amending the Zoning Ordinance, Article XVI TC and TC-1, Town Center Districts so that open air business and the sale of produce and seasonable plant material outdoors would be allowed as a principal use permitted subject to special conditions. This proposal is very similar to the current Zoning Ordinance within Article XVII Regional Center District, Section 1702 (2).

This proposed amendment will provide a basis for businesses within the Town Center District to offer full services to the community that are not presently allowed when confined within the building envelope itself.

My draft of the proposed Ordinance is attached to this correspondence. I would ask that you contact me with any questions or concerns and I would also like to be advised of the dates when this proposed amendment will be considered by the Planning Commission and the City Council. Thank you in advance for your cooperation.

Very truly yours,

GABE, QUINN & SEYMOUR



Matthew C. Quinn

MCQ/kw
Enc.

Sec. 1601 A. Principal Uses Permitted Subject to Special Conditions.

The following uses shall be permitted by the City Council, following review and recommendation of the Planning Commission subject to the conditions hereinafter imposed for each use and subject to the additional requirements of Section 2516.2(c) for special land uses. There shall be held a public hearing by the Planning Commission in accordance with the requirements set forth and regulated in Section 3006 of this Ordinance.

1. Open air business uses when developed in planned relationship to shopping centers in the TC Districts as follows:
 - a. Retail sales of plant material and sales of lawn furniture, playground equipment and garden supplies provided that such uses shall be located at the exterior of the building mass and in the designated side or rear yard and shall meet all setback requirements of the district. The storage or display of any materials or products relating to the above permitted items, shall be contained so as to prevent any adverse effects on adjacent areas and surrounding land use. A noise impact statement is required subject to the standards of Section 2519.10 (c) if the use abuts to a residential zoning district.
2. Sale of produce and seasonal plant materials outdoors, provided such use is incidental to a similar principal use indoors and adjacent to and adjoining the building of the principal use, subject to the following conditions:
 - a. Outdoor sales areas shall comply with all applicable building and fire codes and shall be reviewed and approved by the Building Division.
 - b. Outdoor sales areas shall be located in a manner to maintain a minimum pathway width of six (6) feet (clear of structures such as light poles, trees and hydrants) along the sidewalk so as not to interfere with pedestrian traffic.
 - c. The hours of operation for an outside sales area shall be consistent with the hours of operation of the principal use.
 - d. Outdoor sales areas shall not occupy required parking spaces or drive aisles and/or required landscaping areas and shall be located on a paved surface.

Sec. 1601 B. Required conditions.

1. All business establishments permitted in the district shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
2. See Section 2520 of this Ordinance regulating exterior building wall façade treatments, where applicable.
3. All business, servicing or processing, except off-street parking, loading and those open air uses permitted and regulated in Section 1601A above, shall be conducted within completely enclosed buildings.
4. Site plans shall be prepared in accordance with the requirements of Section 2516 of this Ordinance and, prior to issuance of a building permit, shall be subject to approval by the City Council following review and recommendation by the Planning Commission.
5. See Article 25, General Provisions, relating to off-street parking, off-street parking layout, landscaping and screening requirements and other sections of the Article as they relate to uses permitted in the district.
6. See Article 24, Schedule of Regulations, limiting the height and bulk of buildings, providing minimum yard setbacks and development options.

Revised per applicant May 20, 2010

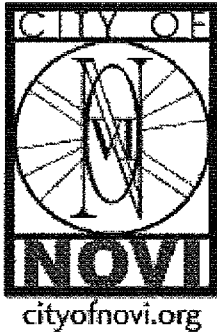
**DISCUSSION OF ORDINANCE TO NOVI ZONING TEXT AMENDMENTS
SECTION 1602 (1) WHICH IS PROPOSED TO READ AS FOLLOWS:**

1. Open air business uses when developed in planned relationship to shopping centers in the TC and TC-1 District as follows:
 - a. Retail sales of plant material and sales of lawn furniture, playground equipment and garden supplies provided that such uses shall be located outside of the building wall and in the designated INTERIOR OR EXTERIOR side or rear yard and shall meet all setback requirements of the district. The storage or display of any materials or products relating to the above permitted items shall be contained so as to prevent any adverse effects on adjacent areas and surrounding land uses. A masonry screen wall, A SCREEN WALL CONSISTING OF MASONRY PILLARS WITH INTERMITTENT DECORATIVE METAL FENCING BETWEEN EACH PILLAR or other suitable screening materials to match the existing façade equal to a height one foot higher than the material to be offered for sale shall be provided. ANY CUSTOMER PICK-UP DOCKS, OR OTHER SIMILAR AREAS, SHALL BE SCREENED FROM ANY ADJACENT PUBLIC STREET BY A GREEN SCREEN, GREEN WALL, SHRUBS OR EVERGREEN TREES. A noise impact statement is required subject to the standards of Section 2519.10 (c).

*ALL CAPITALS indicate language that has been added.

PLANNING REVIEW

MEMORANDUM



TO: MEMBERS OF THE PLANNING COMMISSION
FROM: BARBARA MCBETH, DEPUTY DIRECTOR OF COMM. DEV.
KRISTEN KAPELANSKI, PLANNER
SUBJECT: REVIEW OF PROPOSED TEXT AMENDMENT 18.242
DATE: APRIL 19, 2010

The applicant, Matthew Quinn on behalf of the Novi Town Center, is proposing modifications to Article 16, TC and TC-1 Town Center Districts to create a new section, Principal Permitted Uses Subject to Special Conditions to allow open air business uses and the sale of produce and seasonal plant materials outdoors subject to certain conditions. As requested in the application materials, open air business uses would be permitted as a special land use requiring City Council approval and subject to the following conditions:

- Retail sales of plant material, lawn furniture, playground equipment and garden supplies shall be permitted in connection with a shopping center in the TC and TC-1 Districts.
- The use shall be located at the exterior building mass in the side or rear yard and meet the setback requirements of the district.
- A noise impact statement shall be required when the use is adjacent to a residential district.

The sale of produce and seasonal plant materials outdoors would be permitted as a special land use requiring City Council approval and subject to the following conditions:

- The use shall be incidental to a similar principal use indoors and adjacent to and adjoining the building of the principal use.
- A minimum pathway width of six feet shall be maintained clear of structures along the sidewalk.
- The outdoor sales area shall not occupy required parking spaces, drive aisles or landscaped areas and shall be located on a paved surface.

The applicant has also proposed a new section outlining additional required conditions for the TC and TC-1 District. These include provisions that that all uses shall be conducted within completely enclosed buildings unless otherwise noted, that all goods produced on the premises shall be sold

at retail on the premises where produced and references to various articles and sections of the Zoning Ordinance for regulations pertaining to façade materials, permitted height, setbacks, etc.

Staff Review

Planning staff recommends approval of the proposed text amendment (with the suggested staff modifications described below) to add open air business uses and the outdoor sale of plants and produce as special land uses in the TC and TC-1 District.

1. The TC and TC-1 Town Center Districts are intended to promote the development of a pedestrian accessible, commercial service district in which a variety of retail, commercial, office, civic and residential uses are permitted. Allowing outdoor sales of produce and plant materials as well as the use of open air businesses for the sale of lawn equipment and garden supplies would expand the variety of items available for sale in the Town Center District.
2. The Town Center District is intended to encourage pedestrian use and the development of interesting storefronts and streetscapes. The outdoor sale of produce and plant material would serve to draw more pedestrians to the sidewalks in front of shops and add color and dimension to store fronts and sidewalks.
3. The Town Center Design Manual encourages the use of seasonal enhancements throughout the Town Center Districts. The outdoor sale of plant material and produce could act as a seasonal enhancement as the types of produce and plant material available generally change with the seasons.

Additional Ordinance Provisions

If the Planning Commission and City Council are inclined to approve the amendment to allow open air business uses and the outdoor sale of plant materials and produce in the TC and TC-1, Town Center Districts, the following additional standards or modifications are recommended:

1. The outside storage or retail sale of materials (except for the outdoor sale of produce and plant materials as indicated above) is not permitted in the Town Center District and is generally not permitted in other business districts. Staff would recommend that an open air business use be screened with a masonry wall or other suitable material to match the existing building with a height equal to one foot taller than the material provided for sale.
2. Section 2519.10(c) of the Zoning Ordinance lists the regulations for allowable levels of noise and notes that: "No activity, operation or use of land, open body of water, buildings or equipment shall make, continue or cause to be made or continue, any noise disturbance or allow to be emitted, sound from any source or combination of sources..." that exceeds the

allowable noise levels listed in Section 2519.10(b)(2). This provision makes no distinction for adjacent zoning between residential versus non-residential. However, Section 2519.10(b)(2) does allow greater decibel levels when the adjacent zoning district is non-residential. Additionally, no other district makes a distinction between whether or not a Noise Impact Statement/Analysis is required based on the adjacent zoning district. Staff would recommend that a Noise Impact Statement be required regardless of the adjacent zoning.

3. The suggested required conditions are addressed in Section 1602 Schedule of Regulations/Required Conditions. Staff would recommend omitting any additional required conditions from the proposed ordinance.

The applicant is asked to review this memo and contact the Planning Division to indicate whether they would like to make any additional revisions to their proposed amendment or if they would like to proceed to the Planning Commission. The Planning Commission will hold the public hearing for the proposed text amendment and make a recommendation to the City Council, who will ultimately approve or deny the amendment and may propose alterations as well. The attached staff version of the proposed amendment is subject to review and changes by City staff and/or the City Attorney's Office. Please contact Kristen Kapelanski (248) 347-0586 or kkapelanski@cityofnovi.org) with any questions or concerns.

SCREEN WALLS

Garden Center Screening



