



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item G
July 19, 2010

SUBJECT: Approval of Zoning Ordinance Text Amendment 18.242, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 16, TC and TC-1 Town Center Districts in order to provide standards for open air business uses and the sale of outdoor produce and plants in the Town Center District. **SECOND READING**

SUBMITTING DEPARTMENT: Community Development Department - Planning ^{Bar}

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

An ordinance amendment has been 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. Staff has reviewed the text amendment and suggested additional conditions and minor revisions to the applicant's proposal. Attached please find the applicant's proposed text amendment along with a review memo from staff and staff's suggested version of the proposed amendment. The information below details staff's proposed required conditions.

Open air business uses (such as a garden center associated with a home improvement store) 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 solid masonry screen wall equal to six feet in height with decorative metal fencing above the screen wall with a total height equal to one foot taller than the material to be screened shall be provided.
- Bulk material pick-up areas shall be screened from adjacent public or private streets with a screen wall and/or landscaping to achieve a minimum opacity of 90% in summer and 80% in winter.
- A noise impact statement shall be required.

The sale of produce and seasonal plant materials outdoors (such as sidewalk sales permitted adjacent to a retail building) 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 be located 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 City Council approved a similar text amendment allowing the outdoor sale of produce and plant material in the B-2, B-3 and RC Districts in January of 2009.

The major differences in the staff and applicant version are identified in bold in the table below.

| Ordinance Provision | Applicant Version | Staff Version |
|--------------------------------------|--|---|
| Screening of open air business uses | Masonry screen wall or screen wall consisting of masonry pillars with decorative metal fencing or other suitable material to match the existing façade. | Solid masonry screen wall equal to minimum height of six feet above grade with decorative metal fencing above the masonry screen wall or other suitable material to match the existing façade. |
| Customer bulk pick-up area screening | Screened from adjacent public street by a green screen, green wall, shrub or evergreen trees. | Screened from any adjacent public or private street or parcel with a solid masonry screen wall to match the building and/or landscaping to achieve a minimum opacity of 90% in the summer and 80% in the winter. |

The Planning Commission held the public hearing and recommended approval of staff's version of the text amendment on June 23, 2010. The applicant attended the public hearing and generally agreed with staff's recommended changes.

The City Council approved the first reading of staff's version of the proposed text amendment on July 12, 2010. A few grammatical, non-substantive changes have been made to the text since the first reading and have been highlighted in the strike-through version for comparison.

RECOMMENDED ACTION: Approval of Zoning Ordinance Text Amendment 18.242, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 16, TC and TC-1 Town Center Districts in order to provide standards for open air business uses and the sale of outdoor produce and plants in the Town Center District. **SECOND READING**

| | 1 | 2 | Y | N |
|-------------------------|---|---|---|---|
| Mayor Landry | | | | |
| Mayor Pro-Tem Gatt | | | | |
| Council Member Crawford | | | | |
| Council Member Fischer | | | | |

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

**DRAFT EXCERPT
CITY COUNCIL MINUTES
JULY 12, 2010**

3. **Consideration of Zoning Ordinance Text Amendment 18.242, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 16, TC and TC-1 Town Center Districts in order to provide standards for open air business uses and the sale of outdoor produce and plants in the Town Center District. First Reading**

Mr. Pearson said this was a text amendment proposed by one of the property owners for consideration for accessory uses. He said it had been through the Planning Commission and received a positive recommendation.

Member Margolis said she assumed that there were two versions the applicant version and the staff version. She said she liked the staff version and felt it fit with the vision they had for the City and the kinds of standards they had for other businesses in the City. Member Margolis said she would support the first reading of the staff version.

CM-10-07-094 Moved by Margolis, seconded by Staudt; CARRIED UNANIMOUSLY: To approve the staff version of the Zoning Ordinance Text Amendment 18.242, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 16, TC and TC-1 Town Center Districts in order to provide standards for open air business uses and the sale of outdoor produce and plants in the Town Center District. First Reading

DISCUSSION

Member Mutch asked if Mr. Quinn was present representing the other version. Mr. Quinn was present on behalf of Novi Town Center and investors. He said he originated the application process, with the consent of his client. He said they had gone through this with the Planning Commission and staff the various generations of this and were satisfied with the staff's version and asked that it go forward for adoption. Member Mutch said Mr. Quinn was familiar with the façade requirements in the Town Center District and asked if it was his understanding that the screening required for the outdoor storage garden area would be a similar or matching façade. Mr. Quinn said it would match the building or there would be a request for a Section 9 waiver but the intent was that it would match any building that would be there. He said since it was all brick in that area that was what they could expect to see.

**Roll call vote on CM-10-07-094 Yeas: Mutch, Staudt, Landry, Gatt,
Crawford, Margolis
Nays: None**

4. **Consideration of Zoning Ordinance Text Amendment 18.243, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 24, Schedule of Regulations, removing Section 2401, Preservation Option and Section 2402 Subdivision Open Space Plan, and amending and**

**PROPOSED ORDINANCE AMENDMENTS
CLEAN 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 OPEN AIR BUSINESS USES AND 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 and subject to the conditions hereinafter imposed for each use, and further subject to the additional requirements of Section 2516.2(c) for special land uses. A public hearing shall be held 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 a shopping center 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 and screened so as to prevent any adverse effects on adjacent areas and surrounding land uses. A solid masonry screen wall equal to a minimum of six (6) feet in height measured from average grade, with decorative metal fencing above the masonry screen wall (or

other suitable screening materials to match the existing façade), and with a total height equal to one foot higher than the material to be offered for sale, shall be provided. The sales area shall be accessible to customers from either the adjacent building or from a sidewalk adjacent to the building (or both). Any bulk material pick-up areas, or other similar areas if allowed, shall be screened from any adjacent public or private street or parcel with a screen wall and/or landscaping to achieve a minimum opacity of 90% in the summer and 80% in the winter. 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 that 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 1603. 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
STRIKE-THROUGH VERSION**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 10- 18 – 242

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THE CITY OF NOVI ORDAINS:

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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 and subject to the conditions hereinafter imposed for each use, and further subject to the additional requirements of Section 2516.2(c) for special land uses. There shall be held a public hearing shall be held 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 a 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 and screened so as to prevent any adverse effects on adjacent areas and surrounding land uses. A solid masonry screen wall equal to a minimum of six (6) feet in height measured from average grade, with decorative metal fencing above the masonry screen wall (or

other suitable screening materials to match the existing façade), and with a total height equal to one foot higher than the material to be offered for sale, shall be provided. The sales area should shall be accessible to customers from either the adjacent building and/or from a sidewalk adjacent to the building (or both). Any bulk material pick-up areas, or other similar areas if allowed, shall be screened from any adjacent public or private street or parcel with a screen wall and/or landscaping to achieve a minimum opacity of 90% in the summer and 80% in the winter. 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 that 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:
Nayes:
Abstentions:
Absent: