

MEMORANDUM



TO: MEMBERS OF THE PLANNING COMMISSION
FROM: LINDSAY BELL, AICP, SENIOR PLANNER *LB*
THROUGH: BARBARA MCBETH, AICP, CITY PLANNER
SUBJECT: PUBLIC HEARING FOR TEXT AMENDMENT 18.288
DATE: FEBRUARY 7, 2020

Attached, please find a number of proposed text amendments to the City of Novi Zoning Ordinance as proposed by staff. City Council's Ordinance Review Committee met and requested that staff review land uses which may be more suited to be considered for a Special Land Use permit. Staff has completed this review, and the suggested changes at this time are primarily in the B-2, Community Business District and the B-3, General Business District. The limited scope of this review is intended to provide a manageable number of changes for ease of review by the Planning Commission and the City Council. Staff has incorporated items deemed necessary, including:

1. Amending the definitions of the Retail Business Service Uses and Retail Business Uses, and adding a definition for "Accessory Massage Therapy," "Massage Establishments," and "Smoke Shops":
 - a. The list of uses provided in the definition of Retail Business Service Uses has been updated to include establishments that provide technology repair, such as cell phone or electronic device repair.
 - b. Minor modifications are proposed to the wording in the definitions to improve clarity.
2. Reclassifying theaters and other places of assembly as Special Land Uses in the B-2 and the B-3 Districts. This addition is intended to allow the Planning Commission an opportunity to review any future theaters or places of assembly under the criteria provided in the ordinance for Special Land Use consideration, offering additional discretion for approval, and allowing for a public hearing on such requests.
3. Clarifying the types of retail businesses allowed in the B-3 District. The language proposes reclassifying tattoo parlors as a Special Land Use (from Principal Permitted Uses), and adding Smoke Shops to the list of Special Land Uses in the B-3 District. Again, this would allow the Planning Commission to review these uses under the Special Land Use criteria of the Zoning Ordinance.

4. Adding Massage Establishments as a Special Land Use in the B-3 District and in retail centers over 100,000 square feet. The Zoning Ordinance does not currently provide clear guidance on the permitted location of such uses.

This amendment will allow the Planning Commission to hold a public hearing and consider requests for new massage establishments under the Special Land Use criteria of the ordinance prior to City Council's consideration of granting a license for such uses.

Existing Massage Establishments in other locations will also be considered conforming uses, but if changes to the building or site are proposed that require site plan approval, Special Land Use permit approval by the Planning Commission would also be required.

5. In the use standards for Places of Worship (Section 4.10), clarifying the districts where such use is considered a principal permitted use and where it is a Special Land Use.
6. Allowing the Planning Commission to modify the outdoor recreation requirements for day cares in the use standards for commercial districts.

On October 30, 2019, the Planning Commission held a public hearing on this item and recommended that the text also address massage establishments as an accessory use in zoning districts other than B-3, and to add language to address existing massage establishments. **These changes have been incorporated in the revised text amendment, and a new public hearing was advertised for Wednesday, February 12, 2020.**

The Planning Commission is asked to hold the Public Hearing and make 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 Lindsay Bell at 248.347.0484.

DRAFT ORDINANCE AMENDMENT
STRIKE-THROUGH VERSION

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 18.288

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, ORDINANCE 14-271, THE CITY OF NOVI ZONING ORDINANCE, AT THE FOLLOWING LOCATIONS: ARTICLE 2, "DEFINITIONS"; ARTICLE 3, SECTION 3.1.11 "B-2 COMMUNITY BUSINESS DISTRICT"; ARTICLE 3, SECTION 3.1.12 "B-3 GENERAL BUSINESS DISTRICT"; ARTICLE 4, SECTION 4.10 "PLACES OF WORSHIP"; AND ARTICLE 4, SECTION 4.12 "GROUP DAY CARE HOMES, DAY CARE CENTERS, AND ADULT DAY CARE CENTERS"; ARTICLE 4, SECTION 4.27 "RETAIL BUSINESS AND SERVICE ESTABLISHMENTS"; IN ORDER TO ADD DEFINITIONS FOR MASSAGE ESTABLISHMENTS, ACCESSORY MASSAGE THERAPY, AND SMOKE SHOPS AND TO CLARIFY EXISTING DEFINITIONS FOR RETAIL BUSINESS USES AND RETAIL BUSINESS SERVICE USES, TO CLASSIFY PLACES OF WORSHIP AND THEATERS, ASSEMBLY HALLS, CONCERT HALLS, MUSEUMS AND OTHER PLACES OF ASSEMBLY AS SPECIAL LAND USES IN THE B-2 AND B-3 DISTRICTS, TO ADD SMOKE SHOPS, MASSAGE ESTABLISHMENTS, AND TATTOO PARLORS AS SPECIAL LAND USES IN THE B-3 DISTRICT, TO REMOVE REDUNDANT REFERENCES TO CERTAIN OTHER USES IN THE B-2 AND B-3 DISTRICTS, TO AMEND THE OUTDOOR RECREATION SPACE REQUIREMENTS FOR DAY CARE CENTERS AND ADULT DAY CARE CENTERS, TO CLARIFY AND LIST THE DISTRICTS WHERE PLACES OF WORSHIP ARE ALLOWED AS PERMITTED USES OR SPECIAL LAND USE, TO LIST PERSONAL SERVICE ESTABLISHMENTS AS PERMITTED IN THE B-2, B-3, TC, AND TC-1 DISTRICTS, AND TO ADD THEATERS, ASSEMBLY HALLS, CONCERT HALLS, MUSEUMS AND OTHER PLACES OF ASSEMBLY IN THE TC AND TC-1 DISTRICTS, AND TO ALSO ADD A NEW SECTION 4.91, ENTITLED "MASSAGE ESTABLISHMENTS AND ACCESSORY MASSAGE THERAPY."

THE CITY OF NOVI ORDAINS:

Part I.

That the City of Novi Zoning Ordinance, as amended, Article 2, Definitions, is hereby amended to amend two definitions relating to "Retail Business Uses" and "Retail Business Service Uses" and to add three definitions relating to "Accessory Massage Therapy," "Massage Establishment," and "Smoke Shop," to read as follows:

Accessory Massage Therapy: The practice of massage, as described and regulated under Section 20-1 of the City Code, that is secondary to a personal service establishment or professional service office. Personal service establishments in which accessory massage therapy is permitted include, but are not necessarily limited to, salons, spas, or health clubs. Professional service offices in which accessory massage therapy is permitted typically include, but are not necessarily limited to, doctors, chiropractors, osteopaths, and physical therapist offices.

Massage Establishment: A business as described and regulated under Section 20-1 of the City Code, where the practice of massage is the principal use of the establishment. Massage establishment shall not include massage studios otherwise regulated as an Adult Personal Services Business as defined in Section 2.2 of this Ordinance.

Retail Business Service Uses: Personal service establishments which perform services on the premises, such as, but not limited to: barber shops, beauty shops, copy center, florist shops, locksmiths, home furnishings, photo finishing services, stationers, technology repair, and shoe repair shops.

Retail Business Uses: Generally recognized retail business which supply commodities on the premises, such as, but not limited to: bakeries ~~who's where~~ products are sold only at retail on premises, book stores, ~~news stands~~ newsstands, drug stores, dry cleaning/laundry outlets dealing directly with consumers, food stores, jewelry stores, sporting goods stores, and studios: photography, art, music, and dancing, ~~and sporting goods stores~~.

Smoke Shop: A retail establishment where 50 percent or more of the retail area, defined as wall to wall, is used for the display, promotion, sale or use of products listed below; or an establishment where the sale of products listed below constitute greater than 50 percent of the establishment's merchandise:

- a. Cigarettes, e-cigarettes, vapor, nicotine/alternative nicotine products, cigars and packaged tobacco;
- b. Tobacco smoking and e-cigarette paraphernalia products, including, but not limited to: pipes for smoking tobacco and nicotine products, cigarette holders, pens and electronic devices used for smoking tobacco, vapor products, and other nicotine or alternative nicotine products, and cigarette rolling papers.

Part II.

That the City of Novi Zoning Ordinance, as amended, Article 3, "Zoning Districts," Section 3.1.11, "B-2 Community Business District," is hereby amended to read as follows:

Section 3.1.11 B-2 Community Business District

A. [unchanged]

B. Principal Permitted Uses

- i. Retail business uses §4.27
- ii. Retail business service uses §4.27
- iii. Business establishments which perform services on the premises
- iv. Dry cleaning establishments, or pick-up stations, dealing directly with the consumer §4.24
- v. Professional services
- vi. Instructional centers
- vii. Service establishments of an office, showroom, or workshop nature §4.27
- viii. Restaurants (sit-down), banquet facilities or other places serving food or beverage §4.27
- ~~ix. Theaters, assembly halls, concert halls, museums, or similar places of assembly §4.27~~
- ix. Business schools and colleges or private schools operated for profit §4.27
- xi. Day care centers, and adult day care centers §4.12.2
- xii. Private clubs, fraternal organizations, and lodge halls
- ~~xii. Places of worship §4.10~~
- xiii. Hotels and motels §4.28
- xiii. Professional and medical offices, including laboratories
- xiv. Other uses similar to the above uses
- xv. Accessory structures and uses §4.19, customarily incident to the above permitted uses

C. Special Land Uses

- i. Fueling station §4.29
- ii. Sale of produce and seasonal plant materials outdoors §4.30
- iii. Veterinary hospitals, or clinics §4.31

iv. Places of worship §4.10

v. Theaters, assembly halls, concert halls, museums, or similar places of assembly §4.27

D. [unchanged]

Part III.

That the City of Novi Zoning Ordinance, as amended, Article 3, Zoning Districts, Section 3.1.12, "B-3 General Business District," is hereby amended to read as follows:

Section 3.1.12 B-3 General Business District

A. [unchanged]

B. Principal Permitted Uses

- i. Retail businesses ~~uses or service establishments §4.27~~
- ~~ii. Retail business service uses~~
- ~~ii.iii.~~ Dry cleaning establishments, or pick-up stations, dealing directly with the consumer §4.24
- ~~iii.iv.~~ Business establishments which perform services on the premises
- iv. Professional services
- v. Restaurants (sit-down), banquet facilities or other places serving food or beverage §4.27
- vi. Instructional centers
- ~~vi. Retail business or retail business service establishments §4.27~~
- vii. Professional and medical offices, including laboratories
- viii. Fueling station §4.29
- ~~ix. Sale of produce and seasonal plant materials outdoors §4.30~~
- ix. Auto wash §4.32
- xi. Bus passenger stations
- xii. New and used car salesroom, showroom, or office
- xiii. Other uses similar to the above uses
- ~~xiv. Tattoo parlors~~
- ~~xiii.xv.~~ Publicly owned and operated parks, parkways and outdoor recreational facilities
- ~~xiv.xvi.~~ Accessory structures and uses §4.19 customarily incident to the above permitted uses
- xvii. Public or private health and fitness facilities and clubs §4.34
- xviii. Microbreweries §4.35
- ~~xvii.xix.~~ Brewpubs §4.35
- ~~xviii.xx.~~ Day care centers, and adult day care centers §4.12.2

C. Special Land Uses

- i. Outdoor space for exclusive sale of new or used automobiles, campers, recreation vehicles, mobile homes or rental of trailers or automobiles §4.36
- ii. Motel §4.28
- iii. Business in the character of a drive-in or open front store §4.37
- iv. Veterinary hospitals or clinics §4.31
- v. Plant materials nursery §4.6
- vi. Public or private indoor and private outdoor recreational facilities §4.38
- vii. Mini-lube or oil change establishments §4.39
- viii. Sale of produce and seasonal plant materials outdoors §4.30

- ix. Restaurant in the character of a fast food carryout □ drive-in □ fast food drive through, □ or fast food sit-down □ §4.40
- x. Massage Establishments §4.92
- xi. Smoke Shops
- xii. Tattoo Parlors
- xiii. Places of Worship §4.10
- xiii. Theaters, assembly halls, concert halls, museums, or similar places of assembly §4.27

D. [unchanged]

Part IV.

That the City of Novi Zoning Ordinance, as amended, Article 4, "Use Standards," Section 4.10, "Places of Worship," is hereby amended to read as follows:

Section 4.10 Places of Worship

- A. In the OS-1, OSC, RC, TC, and TC-1 districts, churches and other facilities normally incidental thereto are a permitted use.
- B. In the RA, R-1, R-2, R-3, R-4, B-2, B-3, C, PSLR, and NCC districts, churches and other facilities normally incidental thereto are permitted as a special land use subject to the following conditions:

1-7. [unchanged]

Part V.

That the City of Novi Zoning Ordinance, as amended, Article 4, "Use Standards, "Group Day Care Homes, Day Care Centers, and Adult Day Care Centers," Section 4.12, is hereby amended to read as follows:

Section 4.12 Group Day Care Homes, Day Care Centers, and Adult Day Care Centers

- 1. [unchanged]
- 2. Day care centers and adult day care centers are a permitted use in the B-2, B-3, OST, TC, TC-1 districts and EXO Overlay district and a special land use in the OS-1, OSC, and PSLR districts, all subject to the following:
 - A. In the B-2, B-3, OST, OS-1, OSC, TC, TC-1, PSLR districts and EXO Overlay district:
 - i. Outdoor recreation areas shall be provided, consisting of at least one hundred fifty (150) square feet for each person cared for, unless modified by the Planning Commission based on reasonable justification provided by the applicant, with a minimum total area of three-thousand five-hundred (3,500) square feet. All such outdoor recreation areas shall be fenced with self-closing gates. The recreation area may extend into an exterior side yard up to twenty-five (25) percent of the distance between the building facade and the property line.
 - ii. The hours of operation shall be limited to the period between 6 a.m. and 7 p.m. for those facilities abutting residential zoning districts.

- iii. Facilities shall be located either within a permitted office, or commercial structure, or in a freestanding building on a site coordinated with surrounding development (i.e., traffic flow, parking access, drop off areas, architecture and relationship to other buildings).
- iv. Screening and landscaping of outdoor recreation areas, recreation area fences and parking lots shall comply with Section 5.5.
- v. Off-street parking shall comply with Section 5.2.12. and Section 5.3.

B. [unchanged]

3. [unchanged]

Part VI.

That the City of Novi Zoning Ordinance, as amended, Article 4, "Use Standards," Section 4.27, "Retail Business and Service Establishments," is hereby amended to read as follows:

4.27 Retail Business or Service Establishments

1. In the B-2, B-3, TC and TC-1 districts, all retail business or service establishments are permitted as follows:
 - A. Any retail business whose principal activity is the sale of merchandise in an enclosed building.
 - B. Any service establishment of an office, showroom or workshop nature of a decorator, dressmaker, tailor, bridal shop, art gallery, interior designer or similar establishment that requires a retail adjunct.
 - C. Restaurants (sit down), banquet facilities or other places serving food or beverage, except those having the character of a drive-in or having a drive-through window, unless otherwise permitted herein.
 - D. Personal service establishments which perform services on the premises, such as, but not limited to: barber shops, beauty shops, copy center, florist shops, locksmiths, home furnishings, photo finishing services, stationers, technology repair, and shoe repair shops.
 - ~~D. Theaters, assembly halls, concert halls, museums or similar places of assembly when conducted completely within enclosed buildings.~~
 - E. Business schools and colleges or private schools operated for profit.
2. In the FS district, retail establishments to serve the needs of the highway travelers, including such facilities as, but not limited to, gift shops and restaurants, not including drive-ins are permitted uses.
3. In the TC and TC-1 districts, the following shall be permitted uses: Theaters, assembly halls, concert halls, museums or similar places of assembly when conducted completely within enclosed buildings.

PART VII.

That the City of Novi Zoning Ordinance, as amended, Article 4, "Use Standards," is hereby amended to add a new Section 4.92, "Massage Establishments and Accessory Massage Therapy," to read as follows:

4.92 Massage Establishments and Accessory Massage Therapy

- A. Massage Establishments as a principal use are permitted as a special land use in the B-3 District and in planned commercial centers over 100,000 square feet.
- B. Accessory Massage Therapy shall be permitted in other districts only as a secondary use to a permitted personal service establishment or professional office use. Personal service establishments in which accessory massage therapy is permitted include, but is not necessarily limited to, salons, spas, or health clubs. Professional service offices in which accessory massage therapy are permitted typically include, but are not necessarily limited to, doctors, chiropractors, osteopaths, and physical therapist.
- C. A Massage Establishment that is lawfully operating as of the date this Section takes effect shall be considered a conforming use. However, and notwithstanding that status as a conforming use, any changes to the building or site at these locations that require site plan approval as described in Section 6.1 shall also require Planning Commission approval under the requirements of the Special Land Use permit approval provisions of that Section.

PART VIII.

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 IX.

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 X.

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 XI.

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 _____, 2020.

ROBERT J. GATT, MAYOR

CORTNEY HANSON, CITY CLERK

Ayes:
Nays:
Abstentions:
Absent:

PLANNING COMMISSION MINUTES
EXCERPT, 10-30-2019

large area of parking to get to that open space.

Planner Komaragiri said we looked into that and then we realized that most of the hotels that were designed always have a loop around it and people want to have parking closer to the roads, but yes I agree.

Member Avdoulos said a lot of the hotels that offer breakfast have an outdoor seating area adjacent to the structure. I do think that this is going in the right direction to manage the amount of paved surfaces we have. There may be hotels that come in and based on their business model might want to go back to the other Ordinance and I think that is a case by case basis. I am going through that right now with a project where the City says that we only need 200 spaces but the medical facility were working with says they need 400 spaces and that's just based on what they know. So I think we may get that in the future, but I think that this is going where we want it to go.

Planner Komaragiri said we can definitely look into adding the contiguous part of it and see how we can make it flexible.

Member Avdoulos said I was just on a business trip and we called an Uber and they dropped us off. We see this more and more. Again, this is a living document so if it is not working we can always come back and change it. So I would like to make a motion.

Motion made by Member Avdoulos and seconded by Member Lynch.

ROLL CALL VOTE TO RECOMMEND TO CITY COUNCIL TO AMEND THIS ORDINANCE, BRING THE ORDINANCE LANGUAGE UP TO DATE, AND UPDATE THE STANDARDS FOR THE MINIMUM PARKING, OPEN SPACE, AND LOADING REQUIREMENTS FOR HOTEL DEVELOPMENTS MOTION MADE BY MEMBER AVDUOLO AND SECONDED BY MEMBER LYNCH.

Motion to amend the Ordinance, bring the language up to date, and update the standards for the minimum parking, open space, and loading requirements for hotel developments. Motion carried 6-0.

3. TEXT AMENDMENT 18.288 – UPDATES TO THE B-2 AND B-3 ZONING DISTRICTS

Public Hearing for Planning Commission's recommendation to the City Council for an ordinance to amend the City of Novi Zoning Ordinance at various sections, in order to update the uses permitted as of right and the uses permitted as special land uses in the B-2, Community Business District and B-3, General Business District, and various other modifications.

Planner Bell said on August 28, 2019 we presented a Draft Text Amendment to the Zoning Ordinance as proposed by staff. City Council's Ordinance Review Committee requested that staff review land uses which may be more suited to be considered for Special Land Use Permits. In that review, we have come up with the Amendment suggested before you. Primarily they are in the B-2 Community Business District and B-3 General Business District. We have also incorporated some additional clean up items in our continued attempt to clarify things as we find them.

In summary, the changes include amending the definitions of the retail business service uses and retail business uses and adding a definition for smoke shops in the definition section. The list of uses provided in the retail business service uses has been updated to include some modern establishments including technology repair such as cell phone and electronic device repair. Minor modifications are proposed into the wording in the definitions to improve clarity as well. Another change is reclassifying theaters and other places of assembly as Special

Land Uses in the B-2 and B-3 districts. This addition is intended to allow the Planning Commission an opportunity to review future theaters and places of assembly under the criteria provided in the Ordinance for Special Land Use consideration offering additional discretion for approval and allowing for Public Hearing on such requests.

Another change would be clarifying the types of retail business uses allowed in the B-3 District. The language proposes reclassifying tattoo parlors as a Special Land Use - they were previously principal permitted - and adding smoke shops to the list of Special Land Uses in the B-3 District. Again, this would allow the Planning Commission to review those uses under Special Land Use criteria. We would also add massage establishments as a Special Land Use only in the B-3 District. The Zoning Ordinance does not currently provide clear guidance for the permitted location for these uses, but we have generally interpreted them to fall under the personal service establishment uses. This Amendment will allow the Planning Commission to hold a Public Hearing and consider the request for new massage establishments under the Special Land Use criteria prior to City Council's consideration of granting a license for such uses. The Planning Commission may want to discuss if there are other districts where they would also be permitted as a Special Land Use.

Planner Bell showed a chart with a list of existing businesses that have been issued City licenses for massage establishments and what zoning districts they are located in. Planner Bell said as you can see there are several districts represented including RC, TC, TC-1, B-1, B-2, B-3, OS-1, and even I-1 Districts where we currently have licensed massage establishments.

Another change proposed in this Text Amendment would amend the use standards for places of worship, Section 4.10, to clarify where the districts where such uses consider principal permitted and where it is Special Land Use, that's just kind of clarifying that part of the Ordinance. We would also change the section to allow the Planning Commission to modify the outdoor recreation requirements for daycares in the commercial districts. Previously, we have incorporated that ability for the residential districts but it didn't make it into commercial districts so we are proposing that at this time.

The Planning Commission is asked to hold the Public Hearing and make a recommendation to City Council for reading and adoption.

Chair Pehrson said this is a Public Hearing. If anyone wishes to address the Planning Commission on this matter please step forward. No one from the audience wished to speak. Chair Pehrson asked Member Lynch if there is any correspondence, and with none provided, Chair Pehrson closed the public hearing. Chair Pehrson turned it over to the Planning Commission for their consideration.

Member Maday said any time you can give the community and the Planning Commission a little bit more say in what's going on, I really like that, and I think the community would appreciate that, especially given some of that past issues that have arose. I have nothing to argue about with this.

Member Avdoulos said I have a question related to massages. There are a lot of businesses that are hair salons and massages are probably one of the amenities that are offered, so will they have to indicate that that's being provided in order to meet the Zoning Ordinance? Can they open up a hair salon and then add massage later as part of their business without going through the City?

Thomas Schultz, City Attorney, said this proposed ordinance amendment comes from an Ordinance Review Committee conversation which in turn resulted from an enforcement issue that the City had with a particular massage establishment. There was a denial of a license

which was under the City Code, not the Zoning Ordinance. We amended the massage licensing Ordinance to make it a little more clear when the City could say "no," but the Ordinance Review Committee also raised the question that it might be a little too easy to just open up a massage establishment. Planning staff was asked to look at making this a Special Land Use and decide where it might be appropriate. So as you point out, there are hair salons and other places that often include some massage service as a personal service that aren't in the B-3 District.

Mr. Schultz said, what this Ordinance that's in front of you does is, it says we're creating a new category, massage establishment, in the Zoning Ordinance for the first time. Before it was considered a personal service and allowed in the districts where that use is allowed. One of the things I think you have to do tonight, as a Commission, is decide where all those other districts you might find those broader uses. Applicants do have to get massage licenses from the City Clerk separate from the Zoning Ordinance. Those that have already been granted would not necessarily be permitted anymore, probably just become nonconforming uses that couldn't expand. So I think you have a couple things you might want to think about. Number one, do you think that only allowing them in the B-3 District is too narrow, or should this use be permitted in TC or B-2 or wherever else?

One of the other questions would be to think back to when the City required any bar or restaurant that serves alcohol to be considered a Special Land Use. The bar or restaurant will come to a Committee of department heads, and go through a Special Land Use process. Essentially what we did is, in that Ordinance, we said all the existing bars and restaurants serving alcohol can stay and they're permitted to remain unless they need some sort of Site Plan, then they have to come in and get a Special Land Use approval. So that's an option for this instance, if the Commission wants to require that for massage establishments. I just want to make sure that you have an opportunity to discuss and recognize that at least the Ordinance Review Committee wanted to pull back a little bit. But is just B-3 too far? Then how do you want to treat these businesses?

Member Avdoulos said I think that's where my questioning was coming from. Some of these businesses provide massages as a smaller portion of their business and I don't want to discount that and not allow them to have that opportunity to continue that service. So I don't know if it needs to be that zeroed in or if it can be an ancillary service to another business.

Chair Pehrson said going down the path and looking at the list, I think of Twelve Oaks Mall and Town Center. Visions Spa Salon and places of that nature where massage is a service provided to the customer. I think there's the connotation that we're fighting, that we now call an establishment as opposed to a parlor, which might have some other connotation to it that we don't want in the City. I kind of like the idea of allowing for those that already have a license to be grandfathered in. I wouldn't want to penalize them for having that service, which is legitimate for their clientele after they're getting their hair done, or manicure or pedicure. In such that they then had to come back for any kind of site improvement, they have to come back through the process of then obtaining that massage license or certificate. I think that makes a little more sense because right now you would have half of that list running in to the City for approvals. I don't think that's the intent or the spirit of what we're trying to propose here.

Member Gronachan said out of this list of existing businesses, how many of them only do massages? Looking at most of these, they look like they do massage as an option of many services. I concur with the two previous speakers about the grandfathering in, but is there something that could be added that if it is going to be strictly a massage establishment, then it would go into B-3, but if massage is an additional service, then that could fit into those other areas. Would that clarify it a little bit more? Then that way, in light of what happened in the

past, that would narrow it down by having it in the B-3 District, which there is certainly nothing wrong with that. We can always come back and change it if something else happens, but maybe that would be the way to go. If it is strictly just a massage establishment, it would go into the B-3 District, and if it is going to be an additional service to a business that is allowed in another district, then it could be allowed. Will that make it too complicated?

Chair Pehrson said is that an enforcement issue that would be any kind of burden on the City?

Attorney Schultz said I don't think so. I think if we write the language carefully enough, it should work. I get the idea that if it's part of a hair salon, it would be allowed in those districts where hair salons are allowed. But it might still pick up some of those others and make them non-conforming so if there is a broader list of districts, like the B-1 District or the TC District, that you want to also consider; that's open for discussion.

Member Ferrell said can you explain more about the Special Land Use Permit, does that allow this use anywhere?

Attorney Schultz said right now we don't have a massage establishment section of the Zoning Ordinance. We license them under the City Code and they pay a fee and we inspect them. In the Zoning Ordinance, they have been treated as part of a personal service type activity which is allowed in those other districts for the most part. There would be no need to come to Planning Commission if you have a proper building and you just want to occupy with that use and you meet all other requirements, they don't come to you. If they want to build a building to do that, then they're just coming in front of the Planning Commission to build a building, and you would not be approving their use.

With the Special Land Use, if you create a category and say we're going to treat them as massage establishments, they need a license from the city clerk. Then we will call the massage establishment a Special Land Use, and we will have to add a bunch of requirements that they have to meet before they are allowed to occupy. So now they do have to come to you as the Planning Commission and have to meet a list of 7 or 8 standards that are in the Ordinance; such as, they have to be harmonious with the neighbors, and they have to not affect traffic. You will get to approve whether or not they go in. This is adding that section and making it that kind of use - a much more highly regulated use than it is now. Again, the Ordinance Review Committee looked at some past enforcement actions and say maybe this is a category of uses for just a massage establishment that we want to be more careful about. So the proposed ordinance amendment does that and it also picks your most commercial district, the B-3 District, as the one place we would allow it. All those other ones that are existing would become non-conforming. Unless we do as we discussed for places that serve alcohol, and we include some sort of special language saying those that if they are currently operating can stay.

Member Ferrell said I have a question for the board. Do we want to limit it to just the B-3 District?

Chair Pehrson said I think that's what we're looking at right now. On one hand we're saying what is existing stands, right? Again, not penalizing anything in the TC or OS District, or wherever else and going forward making it such that B-3 is the only district where a massage establishment will be allowed. Or is it anyone's will and desire to just bypass B-3 and go through TC or OS and just add those in as part of the language?

Member Maday said why are we just limiting it to B-3? I feel like there are so many places in the community that it would be viable and I'd hate to lose business over it. I understand the sensitivity over it, but I feel like we're really limiting it with just B-3.

Attorney Schultz said I did sit through most of the Ordinance Review Committee discussion and it wasn't so much focused when we were talking about that. It wasn't a long discussion, but there were a couple of meetings where this came up. It focused less on the district than on the fact that making it a Special Land Use. It came up in the context of we were doing the B-2 and B-3 Ordinance that is in front of you, so there was no discussion that I am aware of at that level saying only the B-3 District. I think that is the idea, that the massage establishment use is not supposed to go everywhere. Basically it was put to you as a Planning Commission to think about where massage establishments might go. B-3 is our most obvious district.

Chair Pehrson said I'm okay with B-3 if it's just for massage establishments, nothing else. Then you're regulating direction for that particular establishment. But I think the language of the ancillary personal service definition for the rest of these, if that, can be applied to any of the districts. Given that it's a Special Land Use, it has to come in front of us anyway so we have some discretion. That way we're not penalizing these folks that already exist. Is that a viable solution to the verbiage?

There was general agreement with that concept.

Chair Pehrson said so can we ask staff to go through and kind of recreate that language and maybe send it back to us.

Attorney Schultz said yes, we will bring this one back.

Member Avdoulos said I have another question. So the businesses that already have that as part of their service, let's say they decide to sell it to somebody, just the business, and the business stays the same and they have massage as part of it, does the approval run with the business?

Attorney Schultz said I think so. I believe that's how we would enforce that. They would have to come and get their own City Clerk license, but we don't typically require a new owner to come in and update their land use approval.

Motion made by Member Avdoulos and seconded by Gronachan.

ROLL CALL VOTE TO BRING THE RECOMMENDATION OF TEXT AMENDMENT 18.288 BACK TO PLANNING COMMISSION FOR REVIEW AND FOR STAFF TO LOOK AT THE DISCUSSION BY THE PLANNING COMMISSION AND INCORPORATE THOSE COMMENTS INTO THE DOCUMENT.

Motion to bring Text Amendment 18.288 back to the Planning Commission for review and for staff to look at the discussion and incorporate those comments into the discussion. *Motion carried 6-0.*

MATTERS FOR CONSIDERATION

1. APPROVAL OF THE SEPTEMBER 25, 2019 PLANNING COMMISSION MINUTES

Motion made by Member Lynch and seconded by Member Gronachan.

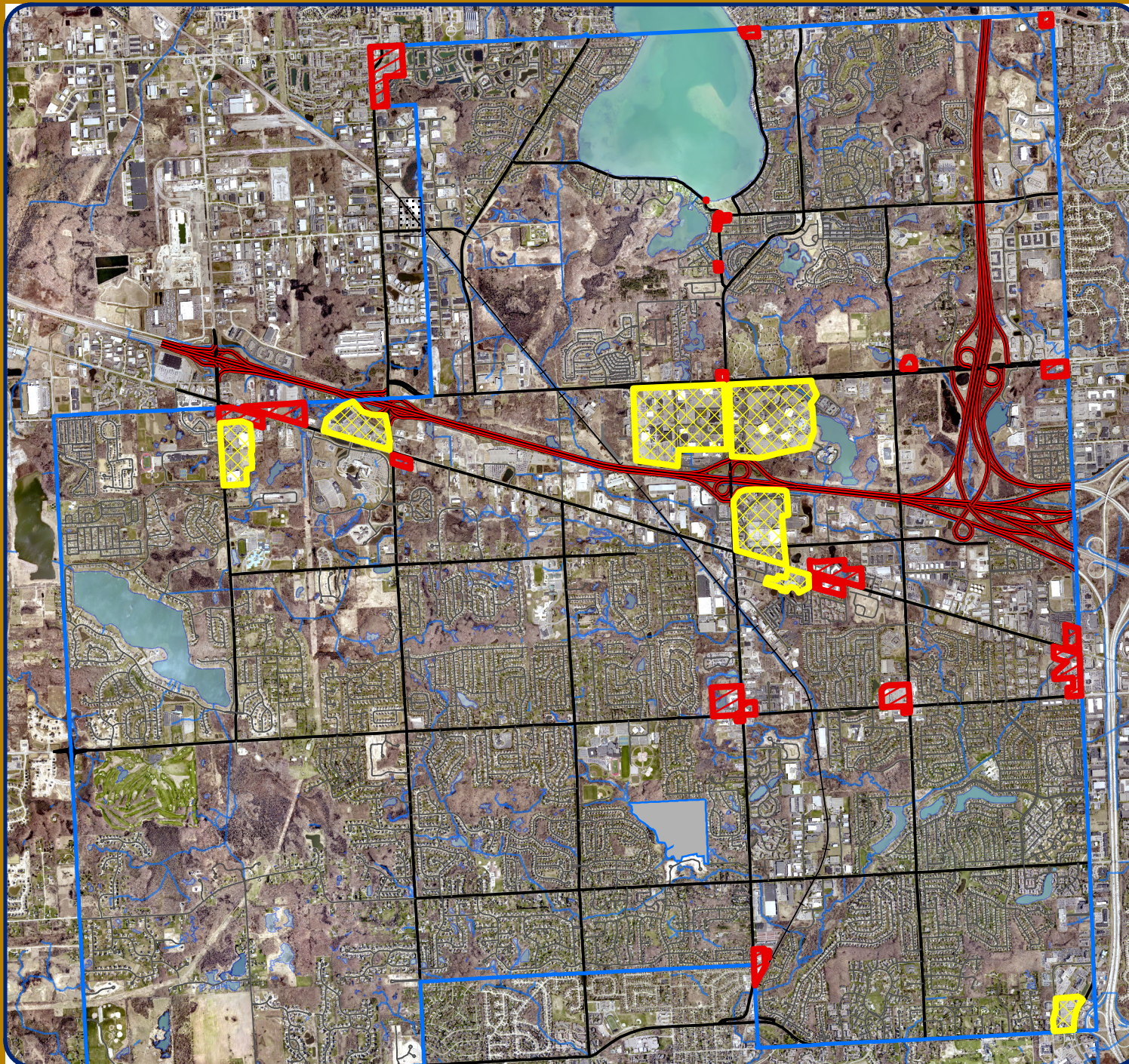
ROLL CALL VOTE TO APPROVE THE SEPTEMBER 25, 2019 PLANNING COMMISSION MINUTES MOTION MADE BY MEMBER LYNCH AND SECONDED BY MEMBER GRONACHAN.

Motion to approve the September 25, 2019 Planning Commission Minutes. *Motion carried 6-0.*



MAP
B-3 DISTRICTS AND PLANNED COMMERCIAL CENTERS

TEXT AMENDMENT 18.288

B-3 DISTRICTS AND PLANNED COMMERCIAL CENTERS



LEGEND

-  B-3: GENERAL BUSINESS DISTRICTS
-  COMMERCIAL CENTERS OVER 100,000 SF



City of Novi

Dept. of Community Development
City Hall / Civic Center
45175 W Ten Mile Rd
Novi, MI 48375
cityofnovi.org

Map Author: Lindsay Bell
Date: 2/7/2020
Project: TEXT AMENDMENT 18.288
Version #: 1

0 1,000 2,000 4,000 6,000 Feet

1 inch = 4,583 feet



MAP INTERPRETATION NOTICE

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