

cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item 4
January 7, 2008

SUBJECT: Consideration of Zoning Ordinance Text Amendment 18.221, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, to modify various sections throughout the ordinance relating to the application of Section 2519.10.c, Special Land Use approvals, modifying the standards, application and requirements for submittal of a noise analysis currently required with consideration of Special Land Use approvals. **First Reading**

SUBMITTING DEPARTMENT: Community Development Department ~~Planning~~

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION: Attached is a proposed ordinance amendment that the Community Development Department has been working on regarding the noise analysis regarding requirements for Special Land Use approval. As you will recall, the Zoning Ordinance presently requires a noise analysis to be conducted and supplied with the submission of each request for a Special Land Use Permit. The noise analysis requirement was instituted to ensure compatibility between existing and proposed land uses throughout the City. However, we believe that there are cases where a full noise analysis is an additional and unnecessary expense for business owners. The attached recommendation from the Planning Commission is the resulting balance of the consideration to deliver quality investments in Novi and to confidently maintain compatibility between neighboring land uses. The proposed amendment would alter the noise analysis requirements as described below.

The amendment would separate the special land uses into three categories with respect to the noise analysis requirement. The first category would be those uses that would not require any type of a noise analysis, the second group of uses would require a noise impact statement and the third group would require a noise analysis. Please see the attached chart which lists all Special Land Uses currently within the Zoning Ordinance and indicates what the noise standard submission would be for each.

A noise impact statement would be introduced into the ordinance as a way to collect information regarding noise impacts without requiring a full scale noise analysis. The noise impact statement would be prepared by a design professional (such as the project engineer) and include information such as a description of the proposed use and expected noise emissions, hours of operation, any proposed noise abatement measures and manufacture's specifications on all internal and external equipment which generates noise.

The noise analysis would be prepared by a certified sound engineer, consistent with the previous requirements of the ordinance. Staff and the Planning Commission are recommending a noise analysis be conducted for certain Special Land Uses that are known or are expected to have noise impacts.

The Community Development Department and the approving body, be it Planning Commission or City Council, would reserve the right to request a noise analysis for any Special Land Use. The Planning Commission would have the authority to waive the noise analysis or noise impact statement requirement if a practical difficulty exists and/or the proposed use would clearly meet the standards of the noise ordinance. The Planning Commission would also have the authority to permit the submission of a noise impact statement in lieu of the submission of a noise analysis.

A public hearing was held by the Planning Commission on December 12, 2007. At this meeting, the Planning Commission approved a motion to send a recommendation of approval of the proposed text amendment to City Council. An excerpt of the Planning Commission meeting minutes is attached.

The Community Development Department received a comment letter concerning the proposed text amendment from former Planning Commission Member Lynn Kocan. Her comment letter is attached and some changes were made to the proposed text amendment to address the concerns noted in her letter.

RECOMMENDED ACTION: Approval of Zoning Ordinance Text Amendment 18.221, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, to modify various sections throughout the ordinance relating to the application of Section 2519.10.c, Special Land Use approvals, modifying the standards, application and requirements for submittal of a noise analysis currently required with consideration of Special Land Use approvals. **First Reading**

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

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

PROPOSED ORDINANCE AMENDMENTS – STRIKE VERSION

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 07- 18 -221

AN ORDINANCE TO AMEND APPENDIX A OF THE CITY OF NOVI CODE OF ORDINANCES, ORDINANCE 97-18, AS AMENDED, KNOWN AS THE CITY OF NOVI ZONING ORDINANCE, SUBSECTIONS 402, 902, 1102,1202, 1302, 1402, 1502, 1702, 1903, 1905, 2102 AND 2519, IN ORDER TO MODIFY THE STANDARDS FOR NOISE ANALYSIS REQUIREMENTS FOR SPECIAL LAND USE APPROVALS.

THE CITY OF NOVI ORDAINS:

ARTICLE 4. R-1 THROUGH R-4 ONE-FAMILY RESIDENTIAL DISTRICTS.

Section 400 – Section 401. [Unchanged.]

Section 402. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1. [Unchanged.]

2. [Unchanged.]

3. Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity and when the architecture is in keeping with the surrounding area. A noise impact statement is required subject to the standards of Section 2519.10(c).

4-14. [Unchanged.]

Section 403. [Unchanged]

ARTICLE 9. NCC NON-CENTER COMMERCIAL DISTRICTS

Section 900 – Section 901. [Unchanged.]

Section 902. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1. [Unchanged.]
2. [Unchanged.]
3. [Unchanged]
4. [Unchanged.]
5. Public Utility Buildings and Uses Without Storage Yards. A noise impact statement is required subject to the standards of Section 2519.10(c).

Section 903. [Unchanged]

ARTICLE 11. OS-1 OFFICE SERVICE DISTRICTS

Section 1100 – Section 1101. [Unchanged.]

Section 1102. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1. [Unchanged.]
2. [Unchanged.]
3. [Unchanged]
4. [Unchanged.]
5. Public or private indoor recreational facilities, including, but not limited to, health and fitness facilities and clubs, swimming pools, tennis and racquetball courts, roller skating facilities, ice skating facilities, soccer facilities, baseball and softball practice areas, indoor archery ranges and similar indoor recreational uses, and private outdoor recreational facilities, including, but not limited to, playfields, playgrounds, soccer fields, swimming pools, tennis and racquetball courts and ice skating facilities. A noise impact statement is required subject to the standards of Section 2519.10(c).

Section 1103. [Unchanged.]

ARTICLE 12. OSC OFFICE SERVICE COMMERCIAL DISTRICT

Section 1200 – Section 1201. [Unchanged.]

Section 1202. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1. [Unchanged.]
2. [Unchanged.]
3. [Unchanged]
4. Amusement and entertainment uses, including commercial recreation centers and theaters, provided:
 - a. [Unchanged.]
 - b. [Unchanged.]
 - c. [Unchanged.]
 - d. A noise impact statement is required subject to the standards of Section 2519.10(c).
5. [Unchanged.]
6. Public or private indoor recreational facilities, including, but not limited to, health and fitness facilities and clubs, swimming pools, tennis and racquetball courts, roller skating facilities, ice skating facilities, soccer facilities, baseball and softball practice areas, indoor archery ranges and similar indoor recreational uses, and private outdoor recreational facilities, including, but not limited to, playfields, playgrounds, soccer fields, swimming pools, tennis and racquetball courts and ice skating facilities. A noise impact statement is required subject to the standards of Section 2519.10(c).

Section 1203. [Unchanged.]

ARTICLE 13. B-1 LOCAL BUSINESS DISTRICTS

Section 1300 – Section 1301. [Unchanged.]

Section 1302. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1. [Unchanged.]
2. Publicly owned buildings, public utility buildings, telephone exchange buildings,

electric transformer stations and substations; gas regulator stations with service yards, but without storage yards; water and sewage pumping stations. A noise analysis is required subject to the standards of Section 2519.10(c).

Section 1303. [Unchanged.]

ARTICLE 14. B-2 COMMUNITY BUSINESS DISTRICTS

Section 1400 – Section 1401. [Unchanged.]

Section 1402. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1. Gasoline service station for the sale of gasoline, oil and minor accessories only, and where no major repair work is done, other than incidental services, but not including steam cleaning or undercoating, vehicle body repair, painting, tire recapping, engine rebuilding, auto dismantling, upholstering, auto glass work, and such other activities whose external effects could adversely extend beyond the property line:
 - a. [Unchanged.]
 - b. [Unchanged.]
 - c. [Unchanged.]
 - d. [Unchanged.]
 - e. [Unchanged.]
 - f. A noise impact statement is required subject to the standards of Section 2519.10(c).

Section 1403. [Unchanged.]

ARTICLE 15. B-3 GENERAL BUSINESS DISTRICTS

Section 1500 – Section 1501. [Unchanged.]

Section 1502. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1. Outdoor space for the exclusive sale of new or used automobiles, campers, recreation vehicles, mobile homes, or rental of trailers or automobiles, all subject to the following:
 - a. [Unchanged.]
 - b. [Unchanged.]
 - c. [Unchanged.]
 - d. [Unchanged.]
 - e. [Unchanged.]
 - f. A noise impact statement is required subject to the standards of Section 2519.10(c).
2. [Unchanged.]
3. [Unchanged.]
4. Veterinary hospitals or clinics, provided all activities are conducted within a totally enclosed building and provided further that all buildings are set back at least two hundred (200) feet from abutting residential districts on the same side of the street. A noise impact statement is required subject to the standards of Section 2519.10(c).
5. Plant materials nursery for the retail sale of plant materials and sales of lawn furniture, playground equipment and garden supplies subject to the following conditions:
 - a. [Unchanged.]
 - b. [Unchanged.]
 - c. [Unchanged.]
 - d. A noise impact statement is required subject to the standards of Section 2519.10(c).
6. Public or private indoor recreational facilities, including, but not limited to, health and fitness facilities and clubs, swimming pools, tennis and racquetball courts, roller skating facilities, ice skating facilities, soccer facilities, baseball and softball practice areas, indoor archery ranges and similar indoor recreational uses, and private outdoor recreational facilities, including, but not limited to, playfields, playgrounds, soccer fields, swimming pools, tennis and racquetball courts and ice

skating facilities. A noise impact statement is required subject to the standards of Section 2519.10(c).

7. [Unchanged.]

Section 1503. [Unchanged.]

ARTICLE 17. RC REGIONAL CENTER DISTRICT

Section 1700 – Section 1701. [Unchanged.]

Section 1702. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1. [Unchanged.]

2. Open air business uses when developed in planned relationship to shopping centers in the RC 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 interior 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).

b. Recreation space providing children's amusement park and other similar recreation when part of a planned development, provided that such use shall be located at the exterior of the building mass in the designated interior side or rear yard and shall meet all setback requirements of the district. Such uses shall be fenced on all sides with a four foot six inch (4 ft. 6 in.) chain link type fence. A noise impact statement is required subject to the standards of Section 2519.10(c).

3. [Unchanged.]

Section 1703. [Unchanged.]

ARTICLE 19. I-1 LIGHT INDUSTRIAL DISTRICT

Section 1900 – Section 1901. [Unchanged.]

Section 1902. The following uses shall be permitted as principal uses permitted. However, when such uses abut a single-family residential district, they shall be treated as special land uses subject to approval by the Planning Commission in accordance with the additional requirements of Section 2516.2(c) for special land uses, and subject to the public hearing requirements set forth and regulated in Section 3006 of this Ordinance and shall provide a noise analysis subject to the standards of Section 2519.10(c):

Section 1903. Principal Uses Permitted in Locations Not Abutting a Residential District and Subject to Special Conditions.

[Unchanged.]

1. Auto undercoating shops when completely enclosed. A noise impact statement is required subject to the standards of Section 2519.10(c).
2. Metal plating, buffing, polishing and molded rubber products subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances. A noise analysis is required subject to the standards of Section 2519.10(c).
3. Uses which serve the limited needs of an industrial district, ~~including:~~ as follows. A noise impact statement is required subject to the standards of Section 2519.10(c) for all uses listed below.
 - a. [Unchanged.]
 - b. [Unchanged.]
 - c. [Unchanged.]
4. Automobile service establishments and public garages for vehicle repair and servicing, engine tune-ups, brake service, electrical repair, wheel alignments, exhaust system repair, heating and air conditioning repair and service, shock and strut system work, glass and upholstery repair and replacement, and engine and transmission service, but not including vehicle undercoating, body repair and collision work, painting, tire recapping, or auto dismantling operations:
 - a. [Unchanged.]
 - b. [Unchanged.]
 - c. [Unchanged.]
 - d. A noise impact statement is required subject to the standards of Section 2519.10(c).

5. [Unchanged.]
6. [Unchanged.]
7. Central dry cleaning plants or laundries provided that such plants shall not deal directly with consumers at retail unless such use is clearly accessory to the principal use. A noise impact statement is required subject to the standards of Section 2519.10(c).
8. Railroad transfer, classification and storage yards. A noise analysis is required subject to the standards of Section 2519.10(c).
9. Tool, die, gauge and machine shops. A noise analysis is required subject to the standards of Section 2519.10(c).
10. Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, provided such is enclosed within a building. A noise analysis is required subject to the standards of Section 2519.10(c).
11. Municipal uses such as water treatment plants, and reservoirs, sewage treatment plants, ~~and~~ all other municipal buildings and uses. A noise analysis is required subject to the standards of Section 2519.10(c).

Section 1904. [Unchanged.]

Section 1905. Required Conditions

[Unchanged.]

1.-9. [Unchanged.]

10. All uses listed in Section 1902 require the submission of a noise analysis subject to the standards of Section 2519.10(c).

ARTICLE 21. P-1 VEHICULAR PARKING DISTRICTS

Section 2100 – Section 2101. [Unchanged.]

Section 2102. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1. Parking for sale of new, unlicensed motor vehicles and parking of licensed rental and loaner motor vehicles, but not including junk or inoperable motor vehicles, partially dismantled or damaged motor vehicles, without time limitation, and subject to the following conditions:

- a. [Unchanged.]
- b. [Unchanged.]
- c. [Unchanged.]
- d. [Unchanged.]
- e. [Unchanged.]
- f. A noise impact statement is required subject to the standards of Section 2519.10(c).

Section 2103. – Section 2105 [Unchanged.]

ARTICLE 25. GENERAL REGULATIONS.

Section 2500 – Section 2518. [Unchanged.]

Section 2519. Performance Standards

No use otherwise allowed, shall be permitted within any district which does not conform to the following standards of use, occupancy, and operation which standards are hereby established as the minimum requirements to be maintained within said area:

- 1. [Unchanged.]
- 2. [Unchanged.]
- 3. [Unchanged.]
- 4. [Unchanged.]
- 5. [Unchanged.]
- 6. [Unchanged.]
- 7. [Unchanged.]
- 8. [Unchanged.]
- 9. [Unchanged.]
- 10. Noise

- a. [Unchanged.]
- b. [Unchanged.]
- c. *Special land use approvals.* ~~No special land use shall be granted unless~~ Where required by this ordinance, the applicant shall submit a noise impact statement or noise analysis as part of a special land use application. The noise impact statement or noise analysis shall demonstrate that the completed structure and all activities associated with the structure and land use can will comply with the standards set forth in Table A, above, at all times. The noise impact statement or noise analysis shall document the ability to comply with said standards, including all internal and external equipment which generates sound. The reports shall be prepared in accordance with the following standards:
 - i. Noise Impact Statement. The Noise Impact Statement shall be prepared by a design professional and include a description of the proposed use as well as a description of how the proposed noise emissions, if any, will comply with Section 2519.10.b. All external and internal equipment that generates sound shall be noted and where available, manufacture's specifications shall be provided. Hours of operation and any proposed soundproofing measures or other noise attenuation features (i.e., walls, berms, etc.) shall be noted. Based on the results of the Noise Impact Statement, a noise analysis may be required.
 - ii. Noise Analysis. ~~The applicant shall submit a~~Where required, a noise analysis shall be prepared documenting the ability to comply with said standards which evaluates all internal and external equipment which generates sound. The reports shall be completed by a certified sound engineer ~~qualified~~competent to evaluate noise emissions under maximum operating conditions. Upon request of the applicant, the Planning Commission may make a finding of fact that a noise impact statement clearly identifies appropriate attenuation of the proposed noise, and the requirement to submit a subsequent noise analysis may be waived.
 - iii. Waiver. The Planning Commission may, upon request of the applicant, waive the noise analysis and/or noise impact statement requirement upon a demonstration by the applicant that a practical difficulty exists ,or that the proposed use clearly meets the standards of Section 2519.10.b.

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.

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 V.

Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ___ DAY OF _____, 2007.

DAVID LANDRY, MAYOR

MARYANNE CORNELIUS, CITY CLERK

Ayes:
Nays:
Abstentions:
Absent:

PROPOSED ORDINANCE AMENDMENTS – CLEAN VERSION

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 07- 18 -221

AN ORDINANCE TO AMEND APPENDIX A OF THE CITY OF NOVI CODE OF ORDINANCES, ORDINANCE 97-18, AS AMENDED, KNOWN AS THE CITY OF NOVI ZONING ORDINANCE, SUBSECTIONS 402, 902, 1102,1202, 1302, 1402, 1502, 1702, 1903, 1905, 2102 AND 2519, IN ORDER TO MODIFY THE STANDARDS FOR NOISE ANALYSIS REQUIREMENTS FOR SPECIAL LAND USE APPROVALS.

THE CITY OF NOVI ORDAINS:

ARTICLE 4. R-1 THROUGH R-4 ONE-FAMILY RESIDENTIAL DISTRICTS.

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Section 402. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1. [Unchanged.]

2. [Unchanged.]

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4-14. [Unchanged.]

Section 403. [Unchanged]

ARTICLE 9. NCC NON-CENTER COMMERCIAL DISTRICTS

Section 900 – Section 901. [Unchanged.]

Section 902. Principal Uses Permitted Subject to Special Conditions

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Section 903. [Unchanged]

ARTICLE 11. OS-1 OFFICE SERVICE DISTRICTS

Section 1100 – Section 1101. [Unchanged.]

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Section 1103. [Unchanged.]

ARTICLE 12. OSC OFFICE SERVICE COMMERCIAL DISTRICT

Section 1200 – Section 1201. [Unchanged.]

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1. [Unchanged.]
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 - b. [Unchanged.]
 - c. [Unchanged.]
 - d. A noise impact statement is required subject to the standards of Section 2519.10(c).
5. [Unchanged.]
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Section 1303. [Unchanged.]

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Section 1400 – Section 1401. [Unchanged.]

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 - b. [Unchanged.]
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 - d. [Unchanged.]
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5. Plant materials nursery for the retail sale of plant materials and sales of lawn furniture, playground equipment and garden supplies subject to the following conditions:
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skating facilities. A noise impact statement is required subject to the standards of Section 2519.10(c).

7. [Unchanged.]

Section 1503. [Unchanged.]

ARTICLE 17. RC REGIONAL CENTER DISTRICT

Section 1700 – Section 1701. [Unchanged.]

Section 1702. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1. [Unchanged.]

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b. Recreation space providing children's amusement park and other similar recreation when part of a planned development, provided that such use shall be located at the exterior of the building mass in the designated interior side or rear yard and shall meet all setback requirements of the district. Such uses shall be fenced on all sides with a four foot six inch (4 ft. 6 in.) chain link type fence. A noise impact statement is required subject to the standards of Section 2519.10(c).

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Section 1703. [Unchanged.]

ARTICLE 19. I-1 LIGHT INDUSTRIAL DISTRICT

Section 1900 – Section 1901. [Unchanged.]

Section 1902. The following uses shall be permitted as principal uses permitted. However, when such uses abut a single-family residential district, they shall be treated as special land uses subject to approval by the Planning Commission in accordance with the additional requirements of Section 2516.2(c) for special land uses, and subject to the public hearing requirements set forth and regulated in Section 3006 of this Ordinance and shall provide a noise analysis subject to the standards of Section 2519.10(c):

Section 1903. Principal Uses Permitted in Locations Not Abutting a Residential District and Subject to Special Conditions.

[Unchanged.]

1. Auto undercoating shops when completely enclosed. A noise impact statement is required subject to the standards of Section 2519.10(c).
2. Metal plating, buffing, polishing and molded rubber products subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances. A noise analysis is required subject to the standards of Section 2519.10(c).
3. Uses which serve the limited needs of an industrial district, as follows. A noise impact statement is required subject to the standards of Section 2519.10(c) for all uses listed below.
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 - b. [Unchanged.]
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4. Automobile service establishments and public garages for vehicle repair and servicing, engine tune-ups, brake service, electrical repair, wheel alignments, exhaust system repair, heating and air conditioning repair and service, shock and strut system work, glass and upholstery repair and replacement, and engine and transmission service, but not including vehicle undercoating, body repair and collision work, painting, tire recapping, or auto dismantling operations:
 - a. [Unchanged.]
 - b. [Unchanged.]
 - c. [Unchanged.]
 - d. A noise impact statement is required subject to the standards of Section 2519.10(c).

5. [Unchanged.]
6. [Unchanged.]
7. Central dry cleaning plants or laundries provided that such plants shall not deal directly with consumers at retail unless such use is clearly accessory to the principal use. A noise impact statement is required subject to the standards of Section 2519.10(c).
8. Railroad transfer, classification and storage yards. A noise analysis is required subject to the standards of Section 2519.10(c).
9. Tool, die, gauge and machine shops. A noise analysis is required subject to the standards of Section 2519.10(c).
10. Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, provided such is enclosed within a building. A noise analysis is required subject to the standards of Section 2519.10(c).
11. Municipal uses such as water treatment plants, and reservoirs, sewage treatment plants, and all other municipal buildings and uses. A noise analysis is required subject to the standards of Section 2519.10(c).

Section 1904. [Unchanged.]

Section 1905. Required Conditions

[Unchanged.]

1.-9. [Unchanged.]

10. All uses listed in Section 1902 require the submission of a noise analysis subject to the standards of Section 2519.10(c).

ARTICLE 21. P-1 VEHICULAR PARKING DISTRICTS

Section 2100 – Section 2101. [Unchanged.]

Section 2102. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1. Parking for sale of new, unlicensed motor vehicles and parking of licensed rental and loaner motor vehicles, but not including junk or inoperable motor vehicles, partially dismantled or damaged motor vehicles, without time limitation, and subject to the following conditions:

- a. [Unchanged.]
- b. [Unchanged.]
- c. [Unchanged.]
- d. [Unchanged.]
- e. [Unchanged.]
- f. A noise impact statement is required subject to the standards of Section 2519.10(c).

Section 2103. – Section 2105 [Unchanged.]

ARTICLE 25. GENERAL REGULATIONS.

Section 2500 – Section 2518. [Unchanged.]

Section 2519. Performance Standards

No use otherwise allowed, shall be permitted within any district which does not conform to the following standards of use, occupancy, and operation which standards are hereby established as the minimum requirements to be maintained within said area:

- 1. [Unchanged.]
- 2. [Unchanged.]
- 3. [Unchanged.]
- 4. [Unchanged.]
- 5. [Unchanged.]
- 6. [Unchanged.]
- 7. [Unchanged.]
- 8. [Unchanged.]
- 9. [Unchanged.]
- 10. Noise

- a. [Unchanged.]
- b. [Unchanged.]
- c. *Special land use approvals.* Where required by this ordinance, the applicant shall submit a noise impact statement or noise analysis as part of a special land use application. The noise impact statement or noise analysis shall demonstrate that the completed structure and all activities associated with the structure and land use will comply with the standards set forth in Table A, above, at all times. The noise impact statement or noise analysis shall document the ability to comply with said standards, including all internal and external equipment which generates sound. The reports shall be prepared in accordance with the following standards:
 - i. Noise Impact Statement. The Noise Impact Statement shall be prepared by a design professional and include a description of the proposed use as well as a description of how the proposed noise emissions, if any, will comply with Section 2519.10.b. All external and internal equipment that generates sound shall be noted and where available, manufacture's specifications shall be provided. Hours of operation and any proposed soundproofing measures or other noise attenuation features (i.e., walls, berms, etc.) shall be noted. Based on the results of the Noise Impact Statement, a noise analysis may be required.
 - ii. Noise Analysis. Where required, a noise analysis shall be prepared by a certified sound engineer qualified to evaluate noise emissions under maximum operating conditions. Upon request of the applicant, the Planning Commission may make a finding of fact that a noise impact statement clearly identifies appropriate attenuation of the proposed noise, and the requirement to submit a subsequent noise analysis may be waived.
 - iii. Waiver. The Planning Commission may, upon request of the applicant, waive the noise analysis and/or noise impact statement requirement upon a demonstration by the applicant that a practical difficulty exists, or that the proposed use clearly meets the standards of Section 2519.10.b.

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.

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 V.

Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

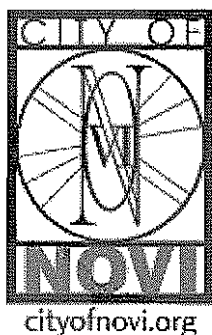
MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ___ DAY OF _____, 2007.

DAVID LANDRY, MAYOR

MARYANNE CORNELIUS, CITY CLERK

Ayes:
Nays:
Abstentions:
Absent:

COMMUNITY DEVELOPMENT DEPARTMENT MEMO



MEMORANDUM

TO: Members of the Planning Commission

FROM: Kristen Kapelanski, Planner

THRU: Barbara McBeth, *AICP*, Deputy Director of Community Development

DATE: November 28, 2007

SUBJECT: **Text Amendment 18.221 Noise Analysis requirements for Special Land Use Approval**

Attached you will find a proposed ordinance amendment that the Community Development Department has been researching regarding the noise analysis required for special land use approval. As you will recall, the Zoning Ordinance presently requires a noise analysis to be conducted and supplied with the submission of each request for a Special Land Use Permit. The proposed amendment would alter the noise analysis requirements as described below.

The amendment would separate the special land uses into three categories with respect to the noise analysis requirement. The first category would be those uses that would not require a noise analysis, the second group of uses would require a noise impact statement, and the third group would require a noise analysis.

A noise impact statement would be introduced into the ordinance as a way to collect information regarding noise impacts without requiring a full scale noise analysis. The noise impact statement would be prepared by a design professional and include information such as a description of the proposed use and expected noise emissions, hours of operation, any proposed noise abatement measures and manufacture's specifications on all internal and external equipment which generates noise.

The Community Development Department and the approving body, be it Planning Commission or City Council would reserve the right to request a noise analysis for any

special land use. The Planning Commission would have the authority to waive the noise analysis or noise impact statement requirement if a practical difficulty exists and/or the proposed use would clearly meet the standards of the noise ordinance. The Planning Commission would also have the authority to permit the submission of a noise impact statement in lieu of the submission of a noise analysis.

The Planning Commission is asked to hold a public hearing on December 12th, 2007 and forward a recommendation to the City Council regarding this amendment. Please find attached drafts of the proposed text amendment and a copy of the relevant Planning Commission minutes. A letter from former Planning Commission Member Lynn Kocan is attached as requested for consideration at the public hearing. Additional public hearing responses, if received, will be available at the December 12th public hearing. If any Commissioner has any questions related to the proposed text amendment, do not hesitate to contact Kristen Kapelanski, in the Community Development Department at (248) 347-0586 or kkapelanski@cityofnovi.org

SPECIAL LAND USES CHART

Special Land Uses and Proposed Noise Analysis Requirements
Text Amendment 18.221

Use	No Noise Analysis Required	Noise Impact Statement Required	Noise Analysis Required
Raising of nursery plant materials provided no such stock or any related material shall be sold on the premises	X		
Dairies with no commercial sales to customers on the premises	X		
Keeping and raising of livestock	X		
Historical buildings occupies by non-residential uses	X		
Bed and Breakfasts	X		
Churches	X		
Public, parochial and private elementary, intermediate or secondary schools	X		
Utility and public service buildings		X	
Group Day Care homes, Day Care Centers and Adult Day Car Centers	X		
Convalescent homes, assisted living facilities, hospice care facilities and child care centers	X		
Accessory buildings	X		
Retail commercial service uses and office uses	X		
All Principal Permitted Uses in the RM-I District	X		
Places of worship	X		
Museums	X		
Public utility buildings		X	
An accessory use customarily related to	X		

Special Land Uses and Proposed Noise Analysis Requirements
Text Amendment 18.221

Use	No Noise Analysis Required	Noise Impact Statement Required	Noise Analysis Required
a principal use authorized by this Section (OS-1), such as but not limited to: a pharmacy or apothecary shop, stores limited to corrective garments or bandages, or optical service			
Mortuary establishments	X		
Publicly owned buildings, telephone exchange buildings and public utility offices	X		
Public or private indoor recreational facilities		X	
Private outdoor recreational facilities		X	
Retail commercial business uses other than restaurants, serving the convenience shopping needs of persons working in a single office building (contained within said office building)	X		
Retail commercial business uses other than restaurants, serving the convenience and comparison shopping needs of the area	X		
Sit-down restaurants, except those possessing the character of a drive-in, drive-through, fast food, fast food carry out or delivery facility	X		
Amusement and entertainment uses		X	

Special Land Uses and Proposed Noise Analysis Requirements
Text Amendment 18.221

Use	No Noise Analysis Required	Noise Impact Statement Required	Noise Analysis Required
Electric transformer stations and substations			X
Gas regulator stations			X
Gasoline service station		X	
Outdoor space for exclusive sale of new or used automobiles, campers, recreation vehicles, mobile homes, or rental of trailers or automobiles		X	
Motel	X		
Business in the character of a drive-in or open front store	X		
Veterinary hospital or clinic		X	
Plant materials nursery for retail sales		X	
Mini-lube or quick oil change establishments	X		
Any retail business or service establishment permitted in the B-2 Community Business District when such uses are accessory to or a part of an existing or developing planned commercial shopping center in an RC District	X		
Recreation space providing children's amusement park and other similar recreation when part of a planned development		X	
Restaurants	X		
Research and development, technical training and activities which include medical, computer, robotic and			X

Special Land Uses and Proposed Noise Analysis Requirements
Text Amendment 18.221

Use	No Noise Analysis Required	Noise Impact Statement Required	Noise Analysis Required
pharmaceutical research, development, instruction or application and any uses charged with the principal of design of pilot or experimental programs			
Data processing and computer centers including computer programming and software development training and data processing services; laser technology and application; communications equipment and repair, service and sales of such equipment; display and showroom facilities for equipment and products			X
Warehousing and wholesale establishments			X
Manufacture, compounding, assembling, or treatment of articles of merchandise from previously prepared materials; bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stones, sheet metal, shell, textiles, tobacco, wax, wire, wood and yarns			X

Special Land Uses and Proposed Noise Analysis Requirements
Text Amendment 18.221

Use	No Noise Analysis Required	Noise Impact Statement Required	Noise Analysis Required
Manufacture of pottery and figurines or other similar ceramic products			X
Manufacture of musical instruments, toys, novelties and metal or rubber stamps			X
Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs			X
Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like			X
Industrial office sales, service and industrial office related uses when located within an existing office building portion of an industrial use			X
Trade or industrial schools			X
Laboratories experimental, film or testing			X
Greenhouses	X		
Other uses of similar or no more objectionable character to the above uses (I-1)			X
Pet boarding facilities			X
Auto undercoating shops		X	
Metal plating, buffing, polishing and molded rubber products			X
Uses which serve the		X	

Special Land Uses and Proposed Noise Analysis Requirements
Text Amendment 18.221

Use	No Noise Analysis Required	Noise Impact Statement Required	Noise Analysis Required
limited needs of an industrial district including: -banks, savings and loan assoc., credit unions, union halls and industrial trade schools or industrial clinics -industrial tool and equipment sales, service, storage and distribution -eating and drinking establishments and motels			
Automobile service establishments and public garages for vehicle repair and servicing		X	
Self-storage facilities	X		
Retail sales activities when ancillary to an otherwise permitted electrical or plumbing supply business or ancillary to otherwise permitted manufacturing, repair or services of electric or neon signs, light sheet metal products, including heating, ventilating and air conditioning equipment, furnaces, lawn maintenance equipment, cornices and eaves and the retail sale of home and commercial building components that are to be fabricated into a	X		

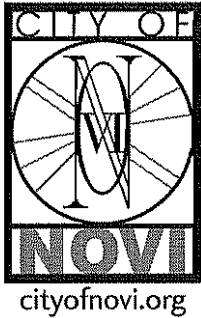
Special Land Uses and Proposed Noise Analysis Requirements
Text Amendment 18.221

Use	No Noise Analysis Required	Noise Impact Statement Required	Noise Analysis Required
structure when ancillary to an otherwise permitted use, provided that sales are predominately to building contractors and the trades			
Central dry cleaning plants or laundries		X	
Railroad transfer, classification and storage yards			X
Tool, die, gauge and machine shops			X
Storage facilities for building materials and contractor's equipment and supplies provided it is in an enclosed building			X
Municipal uses such as water treatment plants and reservoirs, sewage treatment plants, and all other municipal buildings and uses			X
Parking for sale of new, unlicensed motor vehicles and parking of licensed rental and loaner motor vehicles		X	
Conference centers	X		
Hotels	X		
Offices and office buildings	X		
Accessory structures	X		
One or more of the following secondary uses which is accessory to and located in the same building as a principal use authorized by Section 2301 (OS-2): a pharmacy or	X		

Special Land Uses and Proposed Noise Analysis Requirements
 Text Amendment 18.221

Use	No Noise Analysis Required	Noise Impact Statement Required	Noise Analysis Required
apothecary shop, medical supply store, optical services, restaurants, barber shops or beauty shops, gift shops, travel agencies, health studios and related services for employees and offices			
Banks, credit unions, savings banks, savings and loan associations and other types of financial institution uses	X		

PLANNING COMMISSION MINUTES EXCERPT NOVEMBER 28, 2007



PLANNING COMMISSION ACTION SUMMARY

CITY OF NOVI
Regular Meeting

Wednesday, November 28, 2007 | 7 PM
Council Chambers | Novi Civic Center | 45175 W. Ten Mile
248.347.0475

CALL TO ORDER

The meeting was called to order at or about 7:00 PM.

ROLL CALL

Present: Members John Avdoulos, Brian Burke, Victor Cassis, Andrew Gutman, Michael Lynch, Michael Meyer, Mark Pehrson, Wayne Wrobel

Absent: Andrew Gutman (Excused)

Also Present: Steve Ruple, Community Development Director; Barbara McBeth, Deputy Director of Community Development; Karen Reinowski, Planner; Kristen Kapelanski, Planner; David Beschke, Landscape Architect; Ben Croy, Civil Engineer; Dr. John Freeland, Environmental Consultant; Kristin Kolb, City Attorney

MATTERS FOR CONSIDERATION

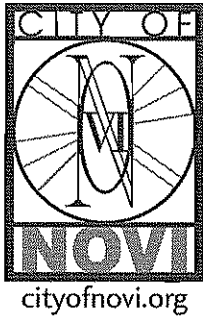
1. **SET A PUBLIC HEARING FOR DECEMBER 12, 2007 FOR ZONING ORDINANCE TEXT AMENDMENT 18.221 IN ORDER TO MODIFY THE STANDARDS FOR NOISE ANALYSIS REQUIREMENTS FOR SPECIAL LAND USE APPROVALS**

Motion to set a Public Hearing for December 12, 2007 for Zoning Ordinance Text Amendment 18.221 in order to modify the standards for Noise Analysis requirements for Special Land Use approvals.

Motion carried 7-0.

**Actual language of motions subject to review.*

PLANNING COMMISSION MINUTES EXCERPT DECEMBER 12, 2007



PLANNING COMMISSION

CITY OF NOVI
 Regular Meeting
 Text Amendment 18.221 Excerpt
Wednesday, December 12, 2007 | 7 PM
 Council Chambers | Novi Civic Center | 45175 W. Ten Mile Road
 (248) 347-0475

CALL TO ORDER

The meeting was called to order at or about 7:00 PM.

ROLL CALL

Present: Members, Brian Burke, Victor Cassis, David Greco, Andrew Gutman, Michael Lynch, Michael Meyer (9:28 PM), Mark Pehrson, Wayne Wrobel

Absent: John Avdoulos (Excused)

Also Present: Steve Rumple, Community Development Director; Barbara McBeth, Deputy Director of Community Development; Mark Spencer, Planner; Kristen Kapelanski, Planner; Kristin Kolb, City Attorney

PUBLIC HEARINGS

1. ZONING ORDINANCE TEXT AMENDMENT 18.221

The Public Hearing was opened for Planning Commission's recommendation to City Council for an ordinance to amend Ordinance No. 97-18, as amended, the City of Novi Zoning Ordinance, to modify various sections throughout the ordinance relating to the application of Section 2519.10.C, Special Land Use approvals, modifying the standards, application and requirements for submittal of a noise analysis currently required with consideration of Special Land Use approvals.

Planner Kristen Kapelanski stated that the proposed text amendment separates Special Land Uses into three categories with respect to the noise analysis requirement:

- Uses that do not require a noise analysis;
- Uses that require a noise impact statement prepared by a design professional and would describe the proposed use and the expected noise emissions, hours of operation, noise abatement measures and manufacturers' specifications on all internal and external noise-generating equipment. Planning Commission or City Council would retain the right to request a noise analysis; and
- Uses that require a full noise analysis.

Ms. Kapelanski said that the text amendment also gives the Planning Commission or City Council the authority to waive the noise impact statement or analysis requirement if a practical difficulty exists, or the proposed use clearly meets the standards of the Noise Ordinance. The Planning Commission or City Council would also have the authority to allow the submission of an impact statement in lieu of the analysis.

There is a change to the language that has been cited by both the City Attorney and former Planning Commission member Lynn Kocan. In Section 2519.10.c, the word "may" should be changed to "shall."

The Community Development Department looked at surrounding communities for comparison purposes. None require a noise analysis, and their recommended decibel levels were comparable to Novi's Ordinance.

Chair Cassis noted that Lynn Kocan's letter was provided to the Planning Commission members, and it would become part of the record. No one from the audience wished to speak so Chair Cassis closed the Public Hearing.

Member Pehrson agreed with Ms. Kocan's suggestion. He asked whether the term "design professional" needed clarification. Ms. Kapelanski responded the term is intended to cover any professional engineer of sorts. It doesn't have to be accredited to someone who analyzes sound. The impact statement is meant to allow the Applicant to submit manufacturers' specifications – concrete information – that supports his position regarding noise levels.

Member Pehrson asked whether any other sections of the Ordinance allow this type of flexibility in credentials. Ms. Kapelanski responded that typically any site plan submittal must be designed by a registered professional. Member Pehrson wondered whether the term "engineer" or "accredited engineer" should be added to the language. Ms. Kapelanski asked for clarification. Chair Cassis said there must be an industry term for this type of professional. Ms. Kapelanski said that the term is a certified sound engineer.

Deputy Director of Community Development Barbara McBeth said that a certified sound engineer is required for a noise analysis, but a design professional could be responsible for the submission of a noise impact statement. Member Pehrson then understood that if the impact statement information did not seem satisfactory then the Applicant could be asked to submit the full noise analysis that was completed by a certified sound engineer. Member Pehrson supported the text amendment,

Member Wrobel thanked Ms. Kocan for her comments. He asked whether car dealerships fall under multiple categories in the language. Ms. Kapelanski responded that the language differentiated between a car dealership and an auto body shop. He supported the text amendment.

Moved by Member Lynch, seconded by Member Burke:

Motion to recommend approval of Zoning Ordinance Text Amendment 18.221 to City Council, with the inclusion of the comments made at the Planning Commission.

DISCUSSION

Chair Cassis thanked Ms. Kocan for her help. He then asked the City Attorney about the onus of responsibility as discussed in Ms. Kocan's letter. Kristin Kolb responded, stating that the steps in the process provide the power to the Planning Commission to require the appropriate documentation.

ROLL CALL VOTE ON TEXT AMENDMENT 18.221 POSITIVE RECOMMENDATION MOTION MADE BY MEMBER LYNCH AND SECONDED BY MEMBER BURKE:

Motion to recommend approval of Zoning Ordinance Text Amendment 18.221 to City Council, with the inclusion of the comments made at the Planning Commission. *Motion carried 7-0.*

**LETTER FROM FORMER
PLANNING COMMISSION MEMBER
LYNN KOCAN**

December 5, 2007

Members of the Novi Planning Commission
City of Novi

Subject: Text Amendment 18.221 – Standards for Noise Analysis Requirements for
Special Land Uses

As a former Planning Commissioner, I always took extra caution before granting a Special Land Use, particularly to a development that would abut a residential district. It was imperative that all of the “findings” required for an SLU (Section 2516.2.c.7. and Section 1905.5.c.) were in order. Noise directly impacts everyone’s quality of life and that’s why so much time and research was spent developing Table A in Section 2510.10.

I had the opportunity to read the proposed revisions to the noise analysis requirements for Special Land Uses, which would require a Noise Impact Statement for certain uses as well as allow for a Noise Impact Statement instead of a Noise Analysis in other situations. While I can understand the desire of developers to relax the requirements for a Noise Analysis prepared by a certified sound engineer, I urge the City to proceed with caution in this regard. ***It is necessary that the burden of proof of compliance with the city’s noise ordinance remains with the developer and not be transferred to the receiving zoning district.*** It is extremely difficult to prove and enforce a violation “where background sound levels exceed the sound level limits in Table A” (Section 2519.10.b.2.). I believe this is especially important when a use other than residential is planned for development in or abutting a residential district.

Following are my comments and recommendations:

Section 402 – For all the uses listed, it appears that there would be no requirement for any noise impact statement and/or analysis other than for utility and public service buildings. ***I do not support this.*** These uses are in a residential area and directly impact the residents in the area. At a minimum, “a noise impact statement is required subject to the standards of 2519.10.(c)” should apply to all indoor uses in this section; a noise analysis should apply to all outdoor uses.

Section 2519.10.c. – I believe that “as part of a special land use approval, the applicant SHALL (rather than “may”) be required to demonstrate” that “.... the structure and land use can comply with the standards set forth in Table A, above, **at all times.**” I don’t believe there should be an option to comply with the standards.

Section 2519.10.c.i. – In the first sentence, it states that “the Noise Impact Statement shall be prepared by a **design** professional....” I question whether this stipulation would be perceived as all-inclusive or would preclude any other professional, i.e., engineering, etc.

Is the chart to be included in the ordinance or is it a checklist for developers? As stated above, I believe all the Section 402 uses listed should at least require a noise impact statement. Any outdoor uses in a residential area should require a noise analysis,

Thank you for all of your hard work regarding these revisions. It’s obvious that a lot of thought went into this.

Lynn Kocan
23088 Ennishore Drive