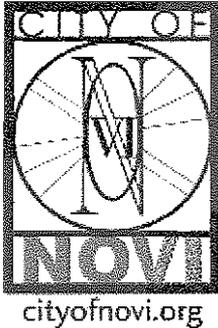


MEMORANDUM



TO: MEMBERS OF THE PLANNING COMMISSION
FROM: BARBARA MCBETH, COMMUNITY DEVELOPMENT
SUBJECT: SET A PUBLIC HEARING FOR CELL TOWER AMENDMENTS
DATE: APRIL 11, 2008

The attached strike-through language proposed for Section 2508 contains changes to the ordinance provisions relating to cell towers. Staff is suggesting modifications due to several applicants requesting relief from ordinance standards in order to place cell tower equipment cabinets outside of an equipment shelter building. Instead, applicants are requesting to place metal equipment cabinets within a small fenced-in compound at the base of the cell tower. Staff's interpretation of the ordinance is that equipment is to be placed within an equipment shelter building, and that outside cabinets are generally not permitted by ordinance. The ordinance notes that equipment shelter buildings shall be constructed of brick on all sides with a gable roof. A couple of requests for a waiver of the equipment building have been sent to the Zoning Board of Appeals for consideration.

The proposed ordinance language would allow the installation of outdoor cabinets, provided that the equipment is contained within a screened equipment compound. The applicants must demonstrate that there are site conditions or constraints of the equipment itself that would make the placement of the equipment in a building impractical. The language states that a masonry screen wall or landscaping must be provided to screen the compound from view.

Additional language is provided to address the possibility that wireless communication facilities may be placed on the roof of a building, or on other structures. Additional standards are applied if the cell tower is permitted in a residential district. Staff and the City Attorney's office may have additional language ready for recommendation at the public hearing on this topic.

The Planning Division respectfully requests that this matter be scheduled for a public hearing for the April 30th Planning Commission meeting. At that time, the Planning Commission will be asked to forward a recommendation to the City Council on the proposed ordinance changes. If there are any questions about these text amendments, please contact the Department.

Draft Amendments April 11, 2008

Sec. 2508. Uses Not Otherwise Included Within a Specific Use District.

Because the uses hereinafter referred to in this Section possess unique characteristics making it impractical to include them in a specific use district, they may be permitted by the City Council upon recommendation by the Planning Commission. The Planning Commission shall review any such use as set forth herein, and make its recommendation after holding a public hearing in accordance with the requirements as set forth and regulated in Section 3006 of this Ordinance.

In every case, the uses herein set forth shall be expressly prohibited from any Residential District, unless otherwise specifically permitted in this Section.

The uses permitted herein require special consideration since they service an area beyond the City and/or require sizable land areas creating potential control problems with respect to adjacent land use and use districts, traffic, noise, appearance and general safety.

Those uses falling specifically within the intent of this Section are as follows:

1. *Commercial Television and Radio Towers, Communication Antennas, Public Utility Microwave Towers, Public Utilities T.V. Transmitting Towers.* Radio and television towers, communication antennas, public utility microwave towers, public utility television transmitting towers, their attendant facilities shall be permitted subject to the following criteria and standards being met:
 - a. Communication antenna towers and poles shall be permitted in I-1 and I-2 Districts, provided the antenna or pole is located at least 300 feet from any residentially-zoned districts. The City Council may permit a communication antenna or pole in other zoning districts not listed above or within 300 feet of a residentially-zoned district, or may otherwise vary the standards contained herein, when it finds that such restrictions would prohibit or have the effect of prohibiting the provision of personal wireless services, so as to contravene the provisions of 47 U.S.C. § 332(c)(7)(B)(i). The relief granted shall be the minimum necessary to eliminate such an effect.
 - b. The following criteria shall be considered in the recommendation of the Planning Commission, and decision of the City Council:
 - (1) Whether the requested use is essential or desirable to the public convenience or welfare;
 - (2) Whether the proposed antenna tower or pole is of such location, size and character as to be compatible with the orderly development of the zoning district in which it is situated, and shall not be detrimental to the orderly development, environment or use of adjacent properties and/or zoning districts. Consideration will be given to applications which present a creative solution to proliferation of antennas.
 - (3) Whether denial of the request will prohibit or have the effect of prohibiting the provision of personal wireless services.
 - c. In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on the City,

co-location, or the provision of more than one facility at a single location, shall be required in accordance with the following. An applicant seeking to establish a new antenna or pole for the providing of wireless services shall be required to provide information regarding the feasibility of co-location at existing sites. Before approval is granted for a new facility, the applicant shall demonstrate that it is not possible to co-locate at an existing site. Further, the applicant shall be required to provide a letter of intent to lease excess space on a facility and commit itself to:

- (1) Respond to any requests for information from another potential shared use applicant;
- (2) Negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically feasible, and
- (3) Make no more than a reasonable charge for a shared use lease.

The requirement to permit co-location in accordance with such letter of intent shall be deemed a condition of approval of an application. If a party that owns or otherwise controls a facility fails or refuses a proposed and feasible co-location, that party shall be deemed in violation of this section. In addition to those remedies provided in Article 38, the party shall be precluded from receiving approval for a new wireless communication facility until such violation is corrected.

To further minimize the impact of such facilities on the City, if facilities cease to be used for transmission purposes, the facilities, including all buildings and structures, shall be removed in their entirety within 90 days of the ceasing of such use and a notice of this condition shall placed on the site plan.

- d. The use may be located on the same property with a second principal use. When a tower or pole is located on the same property as another principal use it shall be separated from all structures, ~~driveways and parking areas~~ associated with the other principal use by a distance no less than forty (40) percent of the height of the pole or tower. Separation shall not be required for an antenna attached to an existing building, tower, pole or other structure. For purposes of access to public streets and dimensional requirements, the property shall be treated as a single site. If a tower ceases to be utilized it shall be removed within 90 days, along with any building, fencing or other structural improvements.
- e. A setback consisting of forty (40) percent of the height of an antenna tower and antenna (forty (40) percent fall zone) shall be required for any antenna tower or pole. Fall zone percentage means the distance relative to the height of the tower or pole, as measured from surrounding grade to the uppermost element of the antenna, which the tower or pole must set back from all adjacent property lines. If the setback is less than one hundred (100) percent of height of tower or pole, the applicant must provide data showing that the facility is designed to keep any falling tower, pole or other infrastructure within the fall zone. Notwithstanding the above, where a site is adjacent to residentially-zoned property, the minimum setback

shall be not less than 100 percent of the height of the antenna tower and antenna.

- f. All transmission lines related to and serving any antenna tower or pole shall be placed underground.
- g. Antenna towers, poles and related equipment shelter buildings shall be subject to site plan review as provided in Section 2516. All equipment not mounted on the antenna tower or antenna pole must be installed in a building unless otherwise permitted. Equipment shelter buildings shall be constructed of face brick on all sides with gable roof in addition to compliance with the facade standards of Section 2520.
- h. The approving body may permit the installation of outdoor cabinets or other equipment outside of a building, provided the equipment is contained within an equipment compound, if it finds that due to existing site conditions or constraints of the equipment itself, that the placing of equipment in a building is not practical and that the equipment will be adequately screened from view from any public road and all neighboring properties. All equipment must be installed below the height of the screening. Screening may consist of a masonry screen wall that complies with Section 2520 or with landscaping that provides for adequate screening, as approved by the city's landscape architect. If enclosed with a fence, the compound entrance shall be screened by an opaque gate.
- hi. Equipment shelter buildings and equipment compounds shall comply with the building setback and height standards for the District in which they are located.
- hj. Antenna towers shall not exceed one hundred and fifty (150) feet in height as measured from surrounding grade.
- jk. Where an attached wireless communication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed, and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform to all district requirements for principal buildings, including yard setbacks.
- kl. Antennas and associated poles or towers may be permitted to be mounted on any existing structure as an accessory, provided all associated equipment is mounted within an enclosed building and the structure does not exceed the maximum height permitted in the district.
- lm. If permitted in a residential district, antennas and associated poles or towers permitted in any residential district shall be of a "stealth design" that conceals the antenna and associated mounting structure or other design that is deemed harmonious with the property and surrounding residential districts.
- jn. As a condition to every approval, the applicant shall provide to the City of Novi Building Department on an annual basis, beginning the first July 1st after erection of the tower, an inspection report from a licensed engineer

confirming: (1) the continued structural integrity of the facility in accordance with applicable standards; and (2) that the facility meets those standards imposed by the Federal Communications Commission for radio frequency emissions. A notice of these conditions shall be placed on the site plan.

keo. When an applicant ~~purposes~~ proposes solely to construct an antenna upon an existing structure, install additional equipment or construct an additional equipment building, without the construction of any additional tower or pole, the application and plan may be reviewed administratively without the necessity of special land use approval, provided that the criteria of this subsection are met. Under such administrative review, determinations that would otherwise be made by the Planning Commission or City Council shall be made by the Planning ~~Department~~ Division of the Community Development Department.

2. *Outdoor Theaters.* Because outdoor theaters possess the unique characteristics of being used only after darkness and since they develop a concentration of vehicular traffic in terms of ingress and egress from their parking area, they shall be permitted in I-2 Districts only, and shall not be adjacent to existing or planned residential areas. Outdoor theaters shall further be subject to the following conditions:
 - a. The proposed internal design shall receive approval from the Building Inspector [Official] and the City Engineer as to adequacy of drainage, lighting and other technical aspects.
 - b. Outdoor theaters shall abut a major thoroughfare and point of ingress and egress shall be available only from such major thoroughfare.
 - c. All vehicles, waiting or standing to enter the facility, shall be provided off-street waiting space. No vehicle shall be permitted to wait or stand within a dedicated right-of-way.
 - d. The area shall be so laid out as to prevent the movie screen from being viewed from residential areas or adjacent major thoroughfares. All lighting used to illuminate the area shall be so installed as to be confined within, and directed onto, the premises of the outdoor theater site.

3. *Sand, Gravel Topsoil and Ore Extraction.* The removal of sand, gravel, limestone or any similar materials by excavation, stripping, mining or otherwise taking, including any on-site operations appurtenant or accessory to the taking (i.e., washing, grading, sorting or grinding and crushing operations) shall be permitted in any zoning district. All extraction from new pits begun subsequent to the effective date of this Ordinance shall be washed, graded and further processed and/or stored within the limits of the property in question or within the limits of the operations and no natural resource extracted outside the limits of the property in question or the limits of adjoining operations by the same company, shall be brought to the site or operation for washing, grading or further processing, except in the event of a public emergency as declared by the City Council. Resource related industries, including but not limited to concrete batch plants, asphalt mixing plants and contractors yards, shall be expressly prohibited as a use permitted under these provisions:

- a. Any sand, gravel, topsoil or ore extraction operations may be permitted in any zoning district in the City including any R Residential District, provided all the applicable requirements of this Ordinance and any other City Code or Ordinance which relates to such operations are strictly adhered to.
4. *Public and Private Stables and Riding Academies.* Public and private stables and riding academies shall be permitted in RA and all One-Family Residential Districts subject to the following:
 - a. There shall be maintained a minimum lot area of not less than ten (10) acres, with a minimum lot width of not less than five hundred (500) feet.
 - b. There shall be provided an area of not less than one (1) acre for each horse stabled.
 - c. The structure for housing the horses shall be not less than one hundred (100) feet from any exterior property line or from any dwelling unit on said property.
 - d. Manure and stable refuse shall be treated so as to control flies and other insects, and shall be disposed of regularly and not be allowed to accumulate so as to become a public nuisance.
5. *Training Farm for Horses in RA and all One-Family Residential Districts, Subject to the Following Conditions:*
 - a. Said use shall not be established on a site of less than sixty (60) acres.
 - b. No less than two (2) acres shall be provided for each horse not stabled.
 - c. Said use shall not be permitted in any quarter section containing a platted subdivision of record and not within five hundred (500) feet of any subdivision of record.
 - d. No building, structure or activity area as a parking lot shall be located closer than three hundred (300) feet to an exterior property line and no practice track shall be located closer than two hundred (200) feet to any exterior property line, nor shall any of the aforementioned facilities be closer than one hundred (100) feet from any dwelling unit on said property. Buildings of greater height than the maximum height allowed in Article 24, Schedule of Regulations, may be allowed.
 - e. The site shall have at least one (1) property line abutting a major thoroughfare and all ingress and egress shall be from said major thoroughfare.
 - f. The site shall not be open to the public and the construction of grandstands or other spectator facilities shall be prohibited.
 - g. The use of loud speakers or other sound amplification devices shall be prohibited.
 - h. Manure shall be treated so as to control flies and other insects, and shall be disposed of regularly and not allowed to accumulate.
 - i. All structures or buildings intended for human habitation shall meet all health, sanitation, housing and other applicable codes and ordinances of the City of Novi.
6. *Accommodations for Helicopters.* Facilities for the accommodation of helicopters are considered separately under this Section. For purposes of accommodating helicopters, the facilities are herein defined as the following:

Helipad. An area on a roof or on the ground used by helicopters or steep-gradient aircraft for the purpose of picking up and discharging of passengers or cargo. This facility is not

open to use by any helicopter without permission having been obtained by the private owner and police department.

Heliport. An area used by helicopters or by other steep-gradient aircraft which area includes passenger and cargo facilities, maintenance and overhaul, fueling service, storage space, tie-down space, hangars and other accessory buildings and open spaces.

Helistop. An area on a roof or on the ground used by helicopters or steep-gradient aircraft for the purpose of picking up or discharging passengers or cargo; but not including fuel service, maintenance or overhaul.

These facilities shall be subject to the review procedures and applicable criteria for airports and the following:

- a. Heliports shall be permitted in the I-2 Districts only. Helistops shall be permitted in all districts except the residential districts, OS-1 Office Service Districts, B-1 Local Business Districts and B-3 General Business Districts. Helipads may be established in any zoning district.
- b. When reviewing an application for a heliport, helistop or helipad, the City shall require contemporary standards recommended by the Federal Aviation Agency and Michigan Aviation Commission for the proper operation of such facilities.
- c. Particular attention shall be given to the following:
 - (1) That adequate provision is made to control access to the facility.
 - (2) That the surface of the facility is such that dust, dirt or other matter will not be blown onto adjacent property by helicopter operations.
 - (3) That all applicable provisions of building, fire and health codes are met, including special provisions applicable in the case of rooftop heliports.
 - (4) That appropriate provision is made for off-street parking.

7. Oil and Gas Drilling Facilities. Oil and gas drilling facilities shall be permitted subject to the requirements of Chapter 23 of the Novi Code of Ordinances.