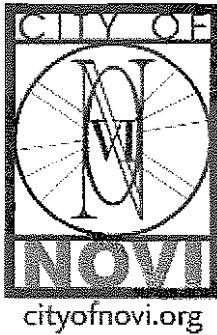


MEMORANDUM



TO: MEMBERS OF THE PLANNING COMMISSION
THROUGH: BARBARA MCBETH, AICP, DEPUTY DIRECTOR
COMMUNITY DEVELOPMENT
FROM: MARK SPENCER, AICP, PLANNER *Mark Spencer*
SUBJECT: PROPOSED DEFINITIONS TEXT AMENDMENT
DATE: August 8, 2008

As a part of on-going efforts to improve customer service and to streamline the development and redevelopment process in Novi, Planning staff reviewed Section 2516 of the Zoning Ordinance and presented text changes to allow expanded administrative site plan approval authority, as well as an extension of the initial timeframe for site plan approval. This amendment received a positive recommendation from the Planning Commission.

Following the public hearing, the City received comments from a business owner requesting to further expand administrative approval authority to include approval of basement areas up to three thousand square feet for limited uses, such as ancillary storage space. If the basement area is not considered habitable under the State building code, the business owner indicated the parking requirements would not be affected. These changes were presented to the City Council and the first reading was approved. Planning Staff and the City Attorney's office further refined ordinance changes to Section 2516, and it will be presented to the City Council for a second reading on August 11th (see attached draft changes to Section 2516).

The proposed text would allow administrative approval of basements and mezzanines up to 3,000 square feet, if designed only for storage or mechanical equipment (as determined by the City's Building Official). Administrative approval of these basements would not be subject to the percentage limitations of other types of building additions. The basement would not be considered part of the gross leasable floor area since the area would not be considered habitable, with the additional provisions added in the ordinance. At the suggestion of the City Attorney's office, a provision was added to require the property owner to execute a recordable affidavit stating that the addition would be used only for storage or mechanical equipment. The recorded affidavit would put all future property owners on notice that this area of the building could only be used for storage or mechanical equipment.

In order to make the Ordinance clearer, the Planning Staff recommends amending the definition of Floor Area, Gross Leasable in Article 2 Section 202, to include the storage/mechanical area exception. During our review it was noticed that the Ordinance also has a definition for Gross Leasable Floor Area and staff recommends consolidating the information from both definitions and deleting the latter definition. A draft strike-through amendment is attached for review.

The Planning Commission is asked to consider setting a public hearing on these proposed Zoning Ordinance changes for the August 27th Planning Commission meeting.

Please feel free to contact the Community Development Department if there are any questions about the attached materials.

**SET A PUBLIC HEARING
"DEFINITIONS" TEXT CHANGES
FLOOR AREA, GROSS LEASABLE**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 08- 18 -230

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, ARTICLE, 2 CONSTRUCTION OF LANGUAGE AND DEFINITIONS, ZONING DISTRICTS AND MAPS, SECTION 201, DEFINITIONS, IN ORDER [TO] REMOVE THE AREA OF OFFICE BASEMENTS AND MEZZANINES LIMITED TO STORAGE ONLY FROM THE GROSS LEASEABLE FLOOR AREA CALCULATION AND TO DELETE UNNECESSARY LANGUAGE.

THE CITY OF NOVI ORDAINS:

PART I. That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amended, Article, 2 Construction of language and definitions, zoning districts and maps, Section 201, Definitions, is hereby amended to read as follows:

ARTICLE 2. CONSTRUCTION OF LANGUAGE AND DEFINITIONS, ZONING DISTRICTS AND MAPS.

Section 200 [Unchanged]

Section 201 Definitions *Accessory use, or accessory – Floor Area, Gross* [unchanged]

Section 201 Definitions *Floor Area, Gross Leaseable:* The whole floor area measured to the inside finished surface of the "dominant portion" of the permanent outer walls, excluding the following:

- (1) Office storage basements or mezzanines of not more than three thousand (3,000) square feet when designed exclusively for storage or mechanical equipment as determined by the Building Official, when accessory to an office building, ancillary to a permitted office use and when the City is in receipt of an affidavit, in recordable form acceptable to the City Attorney, that is signed by the owner of the building stating that the addition will be used only for storage or mechanical equipment, and
- (2) Major vertical penetrations of the floor (e.g. elevator shafts, stairwells, flues, stacks, pipe shafts, interior courtyards/atriums and vertical ducts with their enclosing walls). Structural columns and projections are included. The gross leasable floor area is fixed for the life of a building and is not affected by changes in corridors.

Section 201 Definitions *Floor Area, Residential – Greenbelt, Obscuring* [unchanged]

Section 201 Definitions ~~*Gross Leaseable Floor Area:* The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, upper floors and generally all that area on which tenants pay rent, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.~~

Section 201 Definitions *Group Day Care Home – Yards*[unchanged]

Section 202 – Section 207 [unchanged]

PART II. Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III. Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV. Repealer. All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V. Effective Date: Publication. 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 _____, 2008.

DAVID LANDRY, MAYOR

MARYANNE CORNELIUS, CITY CLERK

Ayes:
Nays:
Abstentions:
Absent:

**SECOND READING
CITY COUNCIL
TEXT CHANGES TO
SECTION 2516
“ADMINISTRATIVE APPROVAL”**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 08- 18 -228

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, ARTICLE 25, SUBSECTIONS 2516, IN ORDER TO MODIFY THE STANDARDS FOR ADMINISTRATIVE REVIEW OF MODIFIED SITE PLANS AND TIME LIMIT OF APPROVALS

THE CITY OF NOVI ORDAINS:

Part I. That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amended, Article 25, General Provisions, Section 2516, Site Plan Review (All Districts), is hereby amended to read as follows:

Sec. 2516. Site Plan Review (All Districts).

1. a. [unchanged]
- b. [unchanged]
- c. A site plan may be reviewed for approval administratively without formal review by the approving body under the following circumstances:
 - (1) When the plan only proposes improvements to or expansion of an existing off-street parking area;
 - (2) When the plan only proposes modifications to a previously approved off-street parking lot layout, provided the proposed modifications do not reduce the number of approved parking spaces to less than the minimum number of spaces required by the Ordinance;
 - (3) When the plan only proposes a change of use within an existing freestanding building or an interior modification of an existing use where such change results in an attendant increase in off-street parking need;
 - (4) When the plan only proposes the improvement, expansion, extension or abandonment of any utility line or easement;
 - (5) When the plan only proposes revisions to a previously approved landscape planting layout, provided that the revision does not compromise any applicable minimum standards of this Ordinance; or
 - (6) When the plan only proposes changes in the location of previously approved buildings, provided the proposed relocation does not displace approved off-street parking areas and has no significant impact on the site or adjacent properties.
 - (7) When the site is already the subject of an existing and previously approved site plan and the revised plan only proposes the construction of an accessory building or accessory structure, where otherwise permitted, for the containment

of hazardous chemicals for compliance with Chapter 15 of the Novi Code of Ordinances, or for any other customary accessory use provided that the accessory building or structure does not exceed [one thousand] (1,000) square feet in total (gross) floor area, and does not require a new or revised woodlands permit or a nonadministrative wetlands permit.

- (8) When the site already the subject of an existing and previously approved site plan and the revised plan only proposes to add a pay telephone structure or delivery service drop box.
- (9) When the site is already the subject of an existing and previously approved site plan and the revised plan only proposes ~~an addition totaling [one thousand] (1,000) square feet or less to an existing building or structure, one of the following:~~
 - a. An addition totaling one thousand (1,000) square feet or less to an existing building or structure; or
 - b. An addition totaling more than one thousand (1,000) square feet but less than ten thousand (10,000) square feet when the proposed addition is less than ten percent (10%) of the gross floor area of an existing non-residential building or structure and when the building or structure is located on a parcel of land that is at least five hundred (500) feet from any residential zoning district;
 - c. An office storage basement or mezzanine totaling not more than three thousand (3,000) square feet, to a proposed or existing building provided the addition, basement or mezzanine does not require a new or revised woodlands permit or a non-administrative wetlands permit.
Notwithstanding anything in the ordinance to the contrary, an office storage basement or mezzanine of not more than three thousand (3,000) square feet approved under this section shall not be considered to be part of the Gross Leasable Floor Area of the building if it is designed exclusively for storage or mechanical equipment as determined by the Building Official, is accessory to an office building and ancillary to a permitted office use, and an affidavit, in recordable form acceptable to the City Attorney, is signed by the owner of the building stating that it will be used only for storage or mechanical equipment.
- (10) When the plan only proposes a change to a previously approved facade plan and the proposed facade revision conforms with the provisions in this Ordinance.
- (11) When an existing restaurant use proposes an outdoor seating area, provided the addition does not require a new or revised woodlands permit, a non-administrative wetlands permit, or where such change does not result in a deficiency in off-street parking demand.

If during any administrative review process authorized under this subpart or subpart (d) it is determined that changes or modifications to a site plan may significantly impact the site or adjacent areas, the site plan shall be forwarded to the Planning Commission for review and approval.

- d. [unchanged]
- e. [unchanged]

2. [unchanged]

3. [unchanged]
4. [unchanged]
5. [unchanged]
6. Approval limitations. Preliminary and final site plan approvals shall have the following limitations:
 - a. Approvals shall be effective for a period of ~~one (1)~~ two (2) years from date of approval;
 - b. Approvals shall lapse and cease to be in effect if the premises are not used or the work is not started within that ~~one~~ two-year period, or within any extension granted pursuant to subsection 2516.7;
 - c. Approvals shall lapse and cease to be in effect if the work commenced is abandoned for a period of one (1) year;
 - d. When a development subject to site plan approval is also subject to special land use approval as a principal use permitted subject to special conditions, option or other conditional use approval, such special land use approval shall expire with the preliminary site plan approval or final site plan approval; and
 - e. Neither the approval of a site plan, nor anything in the City of Novi Zoning Ordinance, should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.
7. Extensions. The time limit set forth in subpart 2516.6a., above, may be extended by the body which approved the preliminary site plan, subject to the following:
 - a. An extension may be granted for any period of time not to exceed one (1) year;
 - b. An extension of site plan approval must be requested in writing, at least thirty (30) days prior to the expiration of the approval period, and such request must be granted before the original site plan approval, or any extension thereof, expires or lapses;
 - c. Validation of a site plan or special land use approval after the date of expiration will require resubmittal to the city for review and approval. Except as otherwise permitted herein, there shall be no revisions to a site plan without prior approval;
 - d. No more than three (3) one-year extensions will be granted;
 - e. Preliminary or final site plan approval shall be void in the event of rezoning that is inconsistent with the planned use;
 - f. It is the burden of the applicant to show good cause for the granting of the requested extension. The body which approved the preliminary site plan shall consider the following factors in its determination of whether good cause exists:
 - (1) The applicant has demonstrated that needed utility services have been delayed;
 - (2) The applicant has demonstrated that technical reviews of the final site plan have raised unforeseen development problems;
 - (3) The applicant has demonstrated that unforeseen economic events or conditions have caused delays;
 - (4) The approved plan to be extended is in compliance with all current site plan criteria and current ordinances, laws, codes and regulations;
 - (5) There is no pending zoning ordinance which would substantially change the requirements of the approved plan.

8. All provisions of the Novi Site Plan and Development Manual, as revised and attached hereto, excluding any appendix or attachments thereto, are hereby adopted, enacted and made a part of this Ordinance. The provisions of the Site Plan and Development Manual shall govern site plan review procedures and development requirements within the City of Novi; provided, if any provision of the Site Plan and Development Manual is in conflict with the City Charter, this or any other ordinance, or applicable statute, the conflicting provision shall not be interpreted as repealing said Charter, ordinance or statute, but rather said Charter, ordinance or statute shall govern.

PART II. Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III. Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV. Repealer. All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V. Effective Date: Publication. 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 _____, 2008.

DAVID LANDRY, MAYOR

MARYANNE CORNELIUS, CITY CLERK

Ayes:
Nays:
Abstentions:
Absent: