



CITY of NOVI CITY COUNCIL

Agenda Item 2
June 4, 2018

SUBJECT: Approval of Zoning Ordinance Text Amendment 18.286 to amend the City of Novi Zoning Ordinance at Article 3, Zoning Districts, Section 3.1.10, B-1, Local Business District, in order to allow restaurant uses in the Local Business Zoning District. **SECOND READING**

SUBMITTING DEPARTMENT: Community Development Department – Planning Barb

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION:

The City Council considered the first reading of the proposed Zoning Ordinance text amendment on April 9th to allow Sit-Down and Fast Food Carryout Restaurants in the B-1, Local Business District, subject to certain standards. During the discussion, the City Council provided a number of comments prior to approving the First Reading of the amendment, as recommended by staff. Staff prepared the attached spreadsheet of all of the parcels in the City that are currently zoned B-1, Local Business, and additional commentary in this motion sheet provides reference that document. Revised Draft Ordinance changes are attached.

City Council Discussion – First Reading

At the City Council's First Reading, the City Council suggested further revising the ordinance language, seeking a balance among the interests of the restaurant operator, the shopping center owner, the nearby residents, and the City. With regard to the needs of the potential restaurant operator, most of the comments mentioned the desire to reduce costs, time and uncertainty of the approval process. The City Council asked that the applicant's needs be balanced against those of any nearby residents, and the needs of the City. Meeting minutes are attached. Staff has prepared a revised ordinance based on the discussion by the City Council, and further input from the applicant (as attached).

City Council suggested that a limitation on the hours of operation could be included for possible restaurant uses, as a part of the ordinance standards. The applicant has suggested the hours of operation from 6 a.m. to 11 p.m. (unless it is a pizza restaurant, which could be open until 1 a.m.). Staff suggests that, since many of the B-1, Local Business District properties are immediately adjacent to residential properties, the hours of operation be limited to 7 a.m. to 10 p.m. The applicant further requested that deliveries be permitted until 1 a.m., which has been included in the revised draft.

Council correctly noted, although much of the focus of discussion has been on the Peachtree Plaza, that the Zoning Ordinance standards that are being considered could apply any existing B-1 District in the City. Staff prepared the attached spreadsheet to better illustrate the areas that are currently zoned B-1, Local Business. Some highlights of the spreadsheet are as follows:

1. Nineteen parcels currently exist within the B-1, Local Business zoning district, ranging in size from 0.2 acres to 6.42 acres. All but two of the nineteen parcels abut residential zoning districts.
2. Restaurants currently exist on five of those nineteen parcels, including Novi Plaza, Haggerty/Ten (Dunkin Donuts), Moe's on Ten, Stuart's Ice Cream and a Pizza restaurant (near the NE corner of Meadowbrook and Ten Mile Road). These are considered legal, non-conforming uses at this time.
3. Briarwood Plaza, located at the northeast corner of Ten Mile and Beck Road, is subject to a Consent Judgment. As noted previously, modifications to the B-1 ordinance at this time would not affect permitted uses in that shopping center.
4. Planned Commercial Center is defined by the ordinance as follows:
A business development consisting of two (2) or more retail commercial outlets characterized by a unified grouping of stores under common architecture, and served by a common circulation and parking system.

The following four parcels could be considered an existing Planned Commercial Shopping Center at this time:

- a. Peachtree Plaza (24,949 square feet)
 - b. Novi Plaza (18,060 square feet)
 - c. Retail Center / Golftech (3571 square feet)
 - d. Ten Mile / Haggerty Plaza (7240 square feet)
5. Three areas currently zoned B-1 could potentially be reworked or redeveloped as Planned Commercial Centers, and potentially allow restaurant uses under the proposed ordinance modifications:
 - a. The Tobin Center (near the SE corner of Ten Mile and Meadowbrook) is primarily general and medical office uses.
 - b. The PNC Bank (at the SE corner of Ten Mile and Meadowbrook) is currently a single use, but with 2.58 acres, the property could be redeveloped,
 - c. Three parcels on Wixom Road (in front of Catholic Central).

Special Land Use requests

Staff continues to suggest that any new restaurants be considered a Special Land Use in the B-1 District, subject to a number of restrictions. One of the main benefits of requiring Special Land Use consideration for the addition of restaurant uses in the B-1 District, is that it would require a public hearing at a Planning Commission meeting, and allow the Planning Commission to weigh any public comments prior to the approval of a restaurant within a Planned Shopping Center. The Planning Commission routinely holds public hearings on many issues, including Special Land Uses, rezoning requests, woodland and wetland permit requests, as well as Zoning Ordinance Amendments. The Planning Commission is equipped to weigh and address the concerns of the public along with the standards for Special Land Use as provided in the ordinance. Without a public hearing notification, the public will not receive notices to their homes, and notice of the public hearing will not be published in the local newspaper.

The fee associated with Special Land Use may be borne by the property owner or may be passed on to a prospective tenant. Fees have been established and approved by resolution of the City Council for various administrative tasks and pass-through costs. In the

case of the Special Land Use consideration, staff prepares a review of the request for consideration by the Planning Commission, sends a mailing of the public hearing announcement to all property owners within 300 feet, and sends a notice to publish the notice in the local paper. The fee assists the City in covering the costs of the Planning Review, and the costs of mailing and publishing the notice. In 2017, the Planning Commission reviewed nine requests for Special Land Use consideration for various projects throughout the City. If the City Council chooses to eliminate the fees to the applicants for Special Land Use consideration for all Special Land Use requests, the likely impact to the City would be about \$5000 per year of unreimbursed costs to the City for work done to complete the review letters, prepare and send the mailings, and for posting the notice in the local newspaper.

As the City Council discussed at the first reading of the ordinance, the property owner or landlord may choose to seek Special Land Use approval on behalf of a tenant, or to assist a prospective tenant prior to the lease being signed. By allowing this opportunity, it could assist in advancing a shopping center as a place that could accommodate a restaurant use. In this manner, the public hearing would be held at the Planning Commission (as is the usual process in Novi), so that the public could be heard regarding any concerns, and the Planning Commission could work to balance the interests of the residents with the interests of the property owners and the City during the review process.

Additionally, staff is suggesting that, if the ordinance is adopted as presented, once a restaurant is approved and established, substantially similar restaurant uses (in size, hours of operation, location within the shopping center) would be permitted to re-occupy the space without the need to seek additional approval by the Planning Commission.

Revised Ordinance for Second Reading

Based on the City Council's comments during the First Reading, staff is suggesting the following ordinance standards (with commentary provided here, as well):

1. Special Land Use consideration shall be required for new restaurants wishing to locate in a Planned Commercial Center the B-1 District, with a public hearing and the standards of the ordinance being applied. This request may be made by the property owner, the property owner's broker or representative, or by a potential restaurant user. Staff is suggesting subsequent restaurants wishing to locate in the same tenant space, provided the hours of operation, size and other characteristics of the subsequent restaurant are similar to those of the preceding restaurant would not be required to apply again for Special Land Use approval.
2. Only those Planned Commercial Center with at least 15,000 square feet of gross floor area would be eligible for restaurant use. This is proposed to insure that the B-1, Local Business shopping centers would continue to meet the intent of the ordinance *to meet the day-to-day convenience shopping and service needs of persons residing in nearby residential areas*, while allowing a mixture of uses, of which a restaurant may support.
3. No more than twenty percent of the Planned Commercial shopping center may be used for sit-down or carry-out restaurants, and no single restaurant use shall exceed 2500 gross square feet. As a comparison, the Picasso Café is approximately 2800 square feet, and a typical Subway restaurant is approximately 1300 square feet. Limiting the percent of the shopping center allowed for restaurant uses, will assist making sure that the parking that has been provided in the existing shopping center lots will be able to also accommodate the restaurant use.
4. The hours of operation of any such restaurant shall not extend beyond the hours of 7 a.m. and 10 p.m. (with food delivery only being permitted until 1 a.m.). The

applicant indicated that a pizza restaurant will need to continue service until 1 a.m. to capture the available business and convenience to the customer. The nearby 7-11 store is open 24 hours a day. Staff suggested that delivery only be permitted between 10 p.m. and 1 a.m. to reduce noise impacts on nearby neighbors.

5. No outside cooking shall be permitted. This provision is intended to limit adverse smells to nearby residents, particularly of grills or meat smokers.
6. In addition to the Special Land Use standards already provided in the ordinance, the Planning Commission shall consider the proximity of the proposed restaurant to residential districts, and evaluate any adverse effects that may be expected to the residential districts due to potential smells, noise, or location of the trash receptacles.

The draft ordinance is attached for Second Reading with the recommended language.

Further Discussion with the Applicant

Planning staff had a chance to meet with the applicant shortly after the First Reading of the Ordinance language to determine how the comments from the First Reading could be addressed. Mr. Brateman has provided the attached, three-tier version of ordinance amendments to address some of the concerns (email dated 5/6/18):

- Allow the first restaurant in a B-1 shopping center as a principal permitted use (up to 14% of the total area of the shopping center),
- Allow a second restaurant to be considered as a Principal Permitted use as long as the total of the two restaurants do not exceed 14% of the total shopping center (a maximum of 3500 square feet in the Peachtree Plaza). If the second restaurant causes the total restaurant use in a shopping center to exceed 14%, the second restaurant would be considered a special land use,
- The third tier is to establish Special Land Use standards for restaurants exceeding the 14% of the total floor area, but not to exceed 20 percent of the total shopping center.

It is staff's opinion that Mr. Brateman's draft ordinance does not appear to be an equitable solution, as the first restaurant in a shopping center would not be subject to the Special Land Use standards, while the second and third restaurants (if requested), would likely need to demonstrate compliance with the Special Land Use standards. This three tier system would be difficult to explain and justify to potential applicants or property owners, and would allow a restaurant to be located before residents are even notified of the possibility that a new restaurant would be established. Additional detail is provided from the applicant in the attachments.

Staff met again with Mr. Brateman on May 30, and the attached draft ordinance was discussed. At the conclusion of the meeting, the applicant appeared to be satisfied with the proposed changes and looks forward to the City Council's discussion and decision at the Second Reading.

Planning Commission Recommendation

The Planning Commission reviewed this matter over the last several months and at two public hearings. At the meeting on March 14, 2018, the Planning Commission considered the request, and after considerable discussion, recommended approval of the applicant's request to allow limited restaurants in the B-1 District, but also including the provision that any such new requests would come before the Planning Commission for consideration as a Special Land Use, with the required public hearing.

RECOMMENDED ACTION: Approval of Zoning Ordinance Text Amendment 18.286 to amend the City of Novi Zoning Ordinance at Article 3, Zoning Districts, Section 3.1.10, B-1, Local Business District, in order to allow restaurant uses in the Local Business Zoning District, as provided in the attached Draft Ordinance language, subject to minor changes to the ordinance language as determined by the City Manager's Office and City Attorney's Office. **SECOND READING**

**DRAFT ORDINANCE
STRIKE-THROUGH
SECOND READING**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 16 – 18.286

AN ORDINANCE TO AMEND THE CITY OF NOVI ZONING ORDINANCE, AMENDING ARTICLE 3, ZONING DISTRICTS, AT SECTION 3.1.10 B-1, LOCAL BUSINESS DISTRICT, TO ALLOW RESTAURANT USES IN THE B-1 LOCAL BUSINESS ZONING DISTRICT.

THE CITY OF NOVI ORDAINS:

Part I. That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amendment, is hereby amended to read as follows:

ARTICLE 3.1.10 B-1, Local Business District

Section A. – B. [Unchanged]

C. SPECIAL LAND USES

- i. Mortuary establishments
- ii. 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
- iii. Restaurants (Sit-Down) and Restaurants (Fast Food Carryout), within a Planned Commercial Center of at least 15,000 (fifteen thousand) square feet of gross floor area, subject to the following:
 1. No more than 20 (twenty) percent of the gross floor area of any such Planned Commercial Center may be used for sit-down or carry-out restaurants, and no single restaurant use shall exceed 2500 (twenty-five hundred) square feet;
 2. The hours of operation of any such restaurant shall not extend beyond the hours of 7 a.m. to 10 p.m., except that deliveries only may take place until 1 a.m.;
 3. No outdoor food preparation of any kind. All such activity must occur inside the building;
 4. In addition to the provisions of the Special Land Use requirements found in Section 6.2.c criteria, the Planning Commission shall consider the proximity of the proposed restaurant to residential districts, and any adverse effects that may be expected to the residential districts due to potential smells, noise, or location of the trash receptacles; and
 5. Once established, a subsequent substantially similar restaurant may occupy the same tenant space, utilizing the same (or less) floor area without the need for the Planning Commission to again review a request for Special Land Use consideration.

D. [Unchanged]

PART II.

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

PART III.

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

PART IV.

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

PART V.

Effective Date: Publication. Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ___ DAY OF _____, 2018.

ROBERT J. GATT, MAYOR

CORTNEY HANSON, CITY CLERK

Ayes:

Nays:

Abstentions:

Absent:

**SPREADSHEET
PARCELS CURRENTLY ZONED B-1**

Parcels Currently Zoned B-1

Name	Location		Address	Sidwell	Building Size +/-	Site size +/-	Tenant spaces	Planned Commercial?	Adj. to Res Zone?
Peachtree Plaza	SW Corner	Ten and Meadowbrook	24025 Meadowbrook	2226-228-028	24,949 sq ft	2.68 acres	Multiple	Yes	Yes
Novi Plaza *	SW Corner	Ten and Meadowbrook	41431 Ten Mile Road	2226-228-031	18,060 sq ft.	1.61 acres	Multiple	Yes	Yes
Seven/Eleven	SW Corner	Ten and Meadowbrook	24111 Meadowbrook	2226-228-025	2538 sq ft	0.34 acres	Single Use	No	No
Tobin Center (Mostly office)	SE Corner	Ten and Meadowbrook	24100 Meadowbrook +	2225-106-001	17,150 sq ft	1.66 acres	Multiple	No	Yes
PNC Bank	SE Corner	Ten and Meadowbrook	41315 Ten Mile Road	2225-101-043	5211 sq ft	2.58 acres	Single Use	No	Yes
Stuart's Ice Cream/Offices *	NE Corner	Ten and Meadowbrook	41390 Ten Mile Road	2224-351-027	4340 sq ft	0.87 acres	Multiple	No	Yes
Oriental Rug	NE Corner	Ten and Meadowbrook	41360 Ten Mile Road	2224-351-024	1600 sq ft	0.20 acres	Single Use	No	Yes
Barbershop	NE Corner	Ten and Meadowbrook	24300 Meadowbrook	2224-351-026	2400 sq ft	0.30 acres	Single Use	No	Yes
Pizza *	NE Corner	Ten and Meadowbrook	24330 Meadowbrook	2224-351-025	1972 sq ft	0.27 acres	Single Use	No	Yes
Retail Center (Golftech)	NE Corner	Ten and Meadowbrook	41300 Ten Mile	2224-351-015	3751 sq ft	0.36 acres	Multiple	Yes	Yes
Meadowbrook Art Center	NE Corner	Ten and Meadowbrook	41200 Ten Mile	2224-351-016	2266 sq ft	0.25 acres	Single Use	No	Yes
River Oaks (Fin. Serv./office	NE Corner	Ten and Meadowbrook	41160 Ten Mile	2224-351-017	2418 sq ft	0.25 acres	Multiple	No	Yes
Ten/Haggerty Dunkin Donuts *	SW Corner	Ten and Haggerty	39415 Ten Mile Raod	2225-226-011	7240 sq ft	1.34 acres	Multiple	Yes	Yes
Moe's on Ten *	SW Corner	Ten and Haggerty	39455 Ten Mile road	2225-226-010	3737 sq ft	0.90 acres	Single	No	Yes
Walgreen's	SE Corner	Ten and Novi	24150 Novi Road	22-26-101-001	13,820 sq ft	1.93 acres	Single	No	No
Briarwood Plaza **	NE Corner	Ten and Beck	47200 Ten Mile Road	2221-300-025	30,048 sq ft	6.42 acres	Multiple	Yes	Yes
Single Family Home	Wixom Road	Wixom Rd S of Grand River	27171 Wixom Road	2218-200-007	1574 sq ft	1.62 acres		No	Yes
Single Family Home	Wixom Road	Wixom Rd S of Grand River	27053 Wixom Road	2218-200-008	1517 sq ft	0.43 acres		No	Yes
Vacant Land	Wixom Road	Wixom Rd S of Grand River	27047 Wixom Road	2218-200-009	0 sq ft	1.70 acres		No	Yes

*Legal Non-conforming Restaurant Use

Existing Planned Commercial Centers

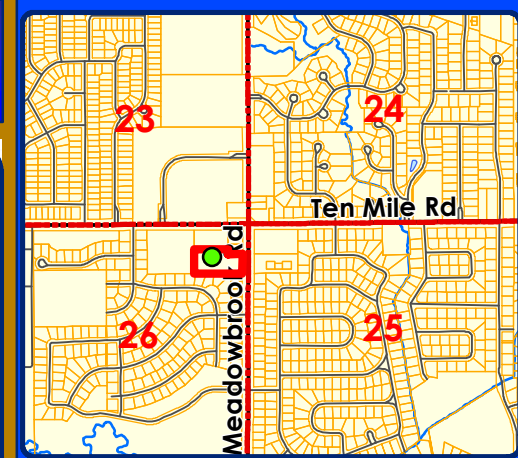
Possible areas that could be reworked into a Planned Commercial Center

**Consent Judgment limits uses

**MAPS OF B-1 PROPERTIES
THROUGHOUT NOVI**

TEXT AMDDNDMENT 18.286 – RESTAURANTS IN B-1

Location



LEGEND

 Sections



City of Novi

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

Map Author: Sri Komaragiri
Date: 11/3/17
Project: TEXT AMDDNDMENT 18.286 – RESTAURANTS IN B-1
Version #: 1



1 inch = 99 feet

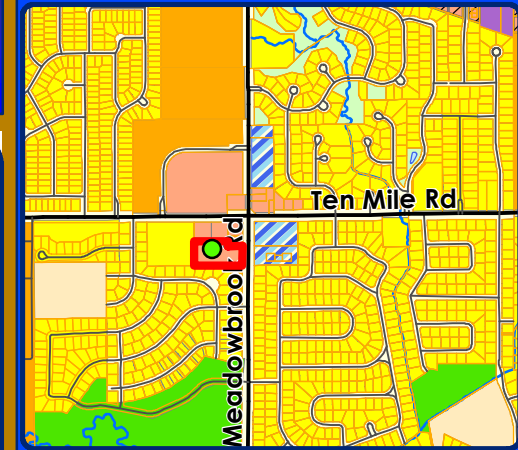
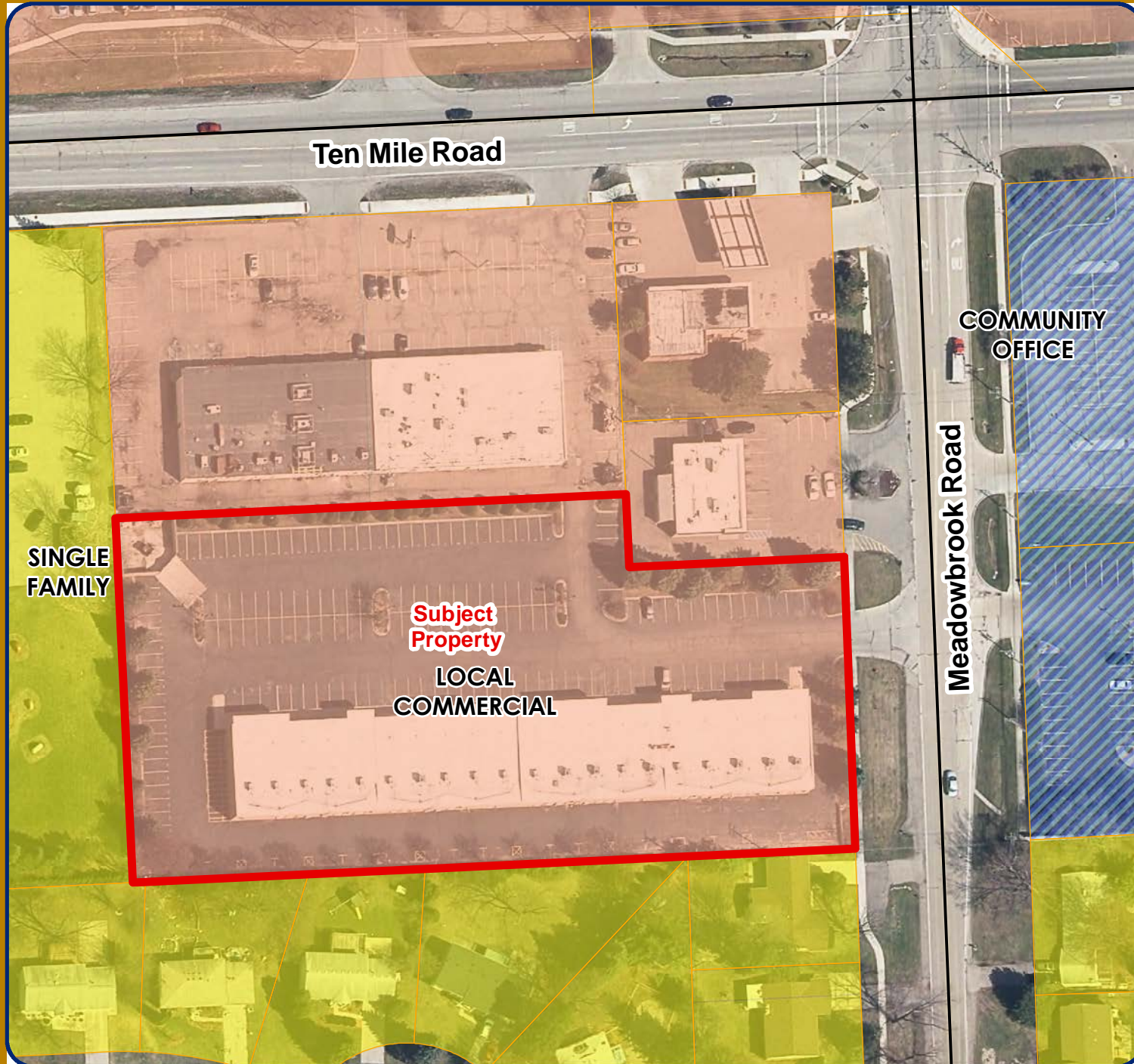


MAP INTERPRETATION NOTICE

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TEXT AMDDMENT 18.286 – RESTAURANTS IN B-1

Future Land Use



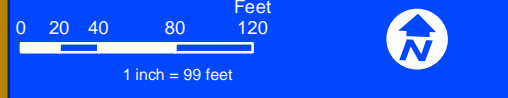
LEGEND

FUTURE LAND USE

- Single Family
- Multiple Family
- Community Office
- Industrial RD Tech
- Local Commercial
- Community Commercial
- Educational Facility
- Public Park
- Private Park

City of Novi
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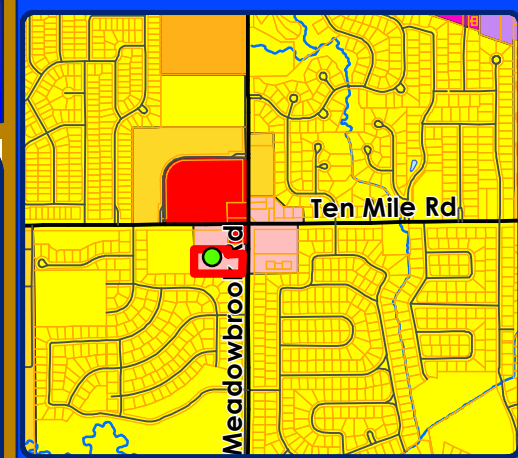
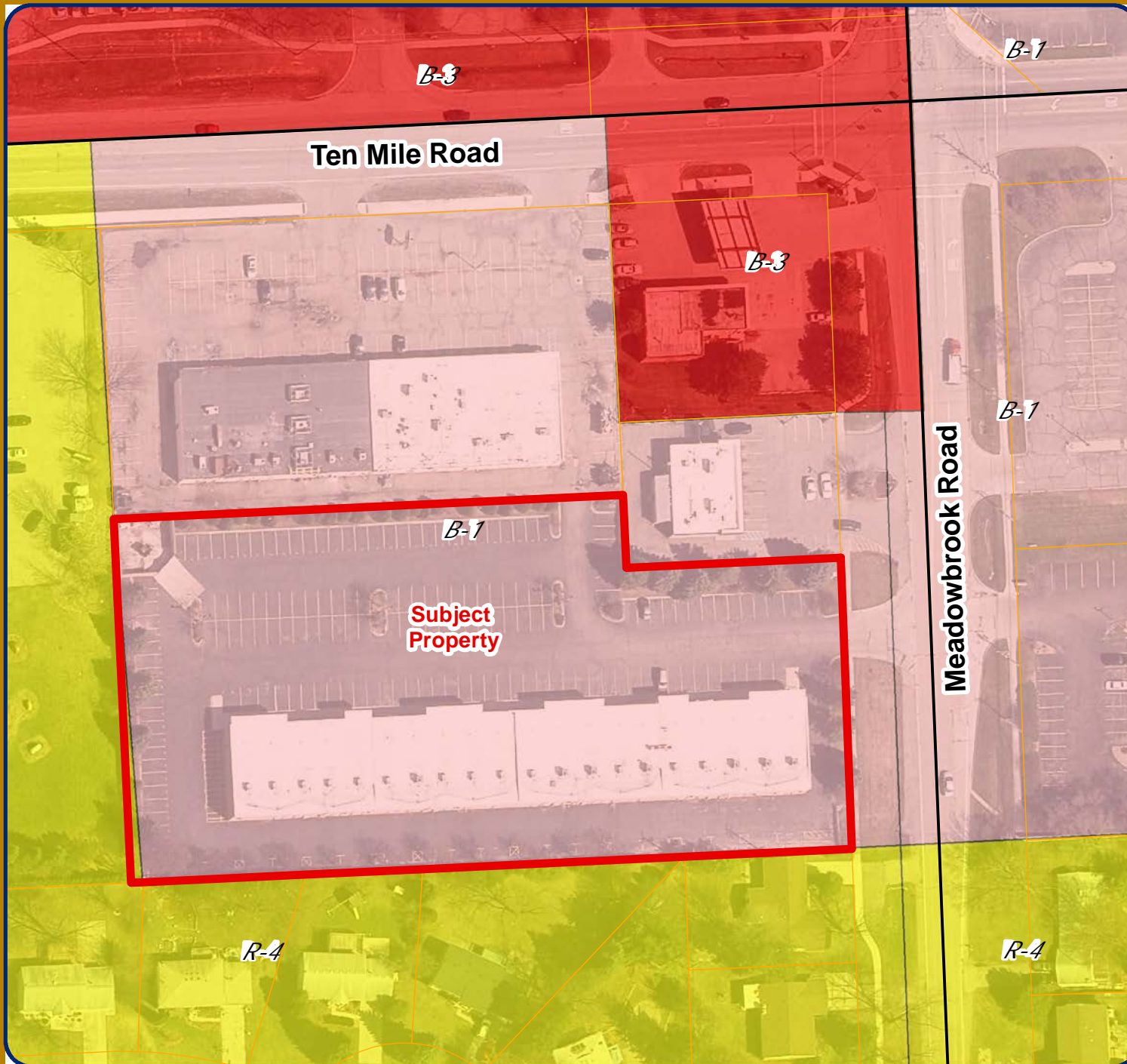


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TEXT AMDDENDMENT 18.286 – RESTAURANTS IN B-1

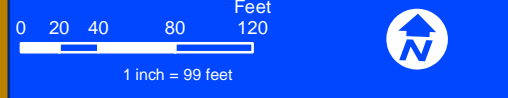
Zoning



- LEGEND**
- R-4: One-Family Residential District
 - RM-1: Low-Density Multiple Family
 - RM-2: High-Density Multiple Family
 - B-1: Local Business District
 - B-3: General Business District
 - I-1: Light Industrial District
 - NCC: Non-Center Commercial District


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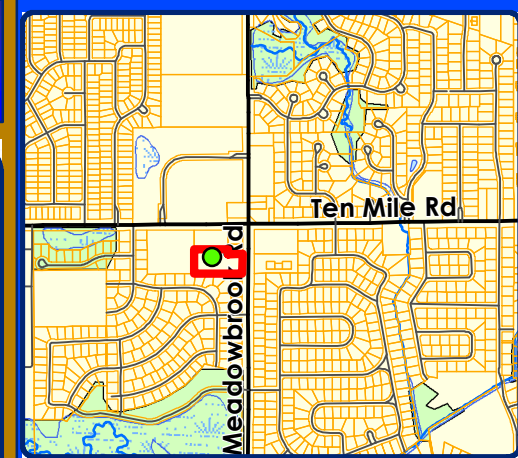


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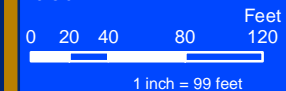
Natural Features



- LEGEND**
- WETLANDS
 - WOODLANDS

 **City of Novi**
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TEXT AMENDMENT 18.286 – RESTAURANTS IN B-1

B-1: Local Business Districts, City of Novi

Map Legend

- B-1
- Properties subject to Text Amendment



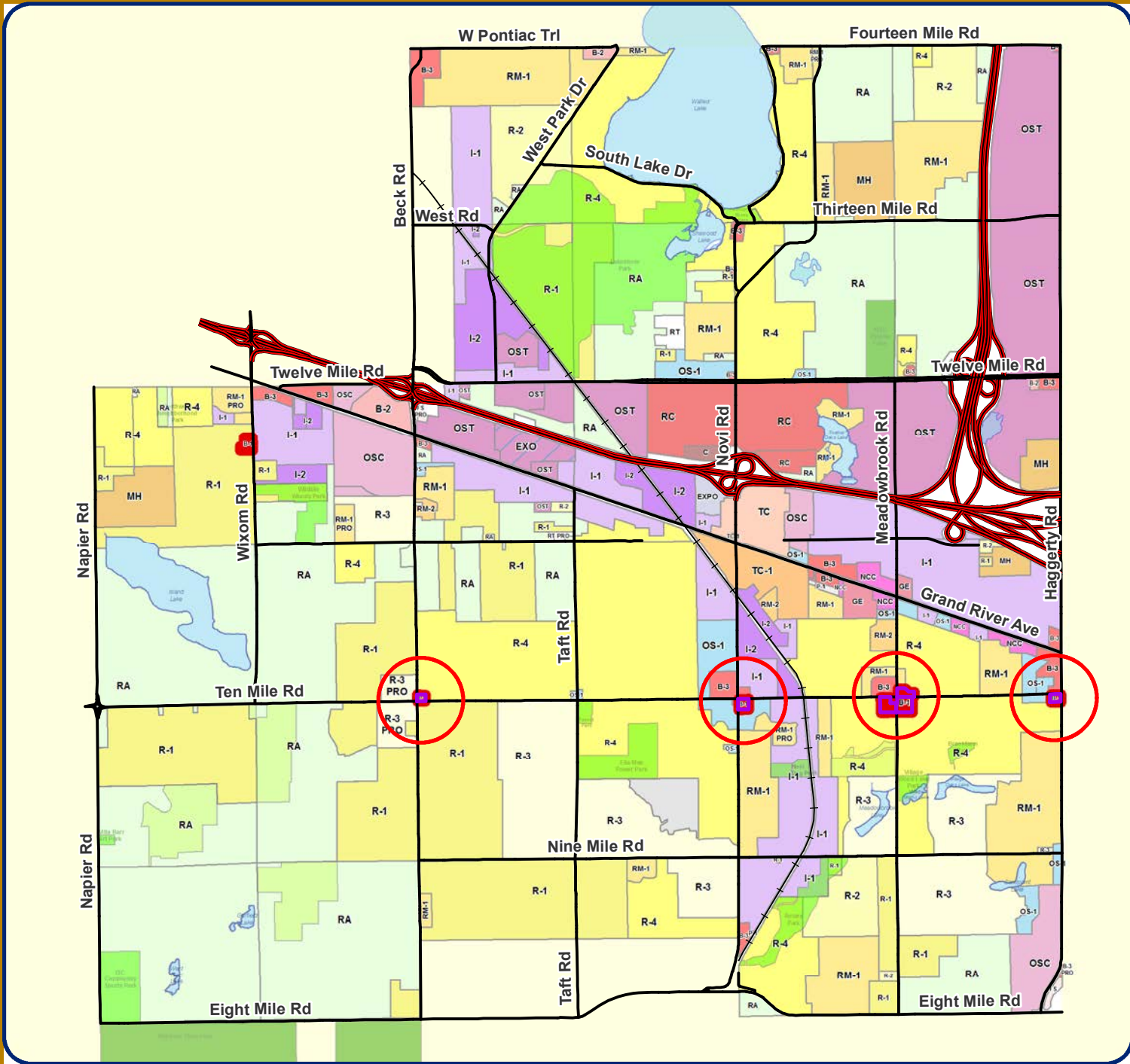
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Amended By:
 Date:
 Department:

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**CITY COUNCIL MEETING MINUTES
EXCERPT**

FIRST READING

**EXCERPT FROM
REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, APRIL 9, 2018 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 TEN MILE ROAD**

Mayor Gatt called the meeting to order at 7:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Gatt, Mayor Pro Tem Staudt, Council Members Breen, Casey, Markham, Mutch, Wrobel

MATTERS FOR COUNCIL ACTION

1. Approval of Zoning Ordinance Text Amendment 18.286 to amend the City of Novi Zoning Ordinance at Article 3, Zoning Districts, Section 3.1.10, B-1, Local Business District, in order to allow restaurant uses in the Local Business Zoning District. **FIRST READING**

Mayor Gatt mentioned he had a few minutes to talk to City Planner McBeth before the meeting. He asked her if they passed this ordinance as it is written, would it add an extra cost to the person or the developer if they wanted to open up a restaurant in the B-1 District. He stated that one of the previous speaker's opinions was that it would be an extra cost. City Planner McBeth confirmed that if this does get approved and someone comes in for a Special Land Use approval, there would be a fee associated with it. Mayor Gatt wondered how much that fee would be, she responded it would be \$500. The fee would assist the city in paying for the cost to advertise the public hearing, mail letters out, and prepare reports that are presented to the Planning Commission. Mayor Gatt wondered if there were any other detriments to the applicant other than the \$500 fee. City Planner McBeth said she wouldn't call them detriments; she would call them conversation, such as what type of restaurant would be proposed, where it would be located, the size, and the hours of operation. She stated if they planned on anything on the outside of the building they would want to know that as well. He asked if the Special Land Use passes, will the residents in the area surrounding of this be informed of what is being proposed. She answered, yes; it would follow a similar process as any other Special Land Use. Our staff would prepare response letters and a brief indication of what the request is. The residents could fill out a response letter and say they are in support, reject, or they can come to the Planning Commission meeting and express their thoughts on the record. Mayor Gatt asked if there was an alternative proposed. He stated the applicant; Jonathan Brateman has contacted Council and provided material regarding an alternative suggesting a restaurant of a smaller proportion. He said that a smaller restaurant doesn't need a Special Land Use. What would happen to that applicant? City Planner McBeth stated that would be a policy decision for City Council. City Council can decide if it would be a Special Land Use or if it would be a permitted use. If it is a permitted use in an existing shopping center, the applicant would likely come in and talk to the Planning Department and to the Building Department about what is being proposed. If it is permitted then they can move right in to the building permits process in most cases. Mayor Gatt confirmed with City Planner McBeth that there would be no Special Land Use fee, and no appearance

before the Planning Commission or City Council because that applicant is using a business that has been approved by ordinance.

Jonathan Brateman, the applicant, said he has a business in Novi, Jonathan Brateman Properties since 1989 at 40015 Grand River Ave., Suite 105. He reiterated that any proposed change to the B-1 Zoning Ordinance will not affect the shopping center at 10 Mile and Beck Road. That is part of a PUD which set forth the B-1 uses allowed at the time of the creation of the PUD. He said nothing that we talk about tonight will affect 10 Mile and Beck. He stated that the owners of the Koby Language Academy, Novi Family Dental, and the Novi-Northville Jewish Center at Peachtree Plaza are all in support of this. He was there to give support to all of the small businesses we still cherish. They don't make the same impact as a large business, but they still deserve a place in our community setting. They have a standard for risk and they are willing to take some, but not all, risk. He referred to the packet of information he provided to Council and pointed out that residential can live next to retail. He referred to the area of Moe's on Ten which is in a B-1 Zoned District property whose restaurant use was "grandfathered". He provided a map which showed the proximity of the homes to that site and he stated that business has continued for many years. He then pointed out the Peachtree Plaza and its proximity to the residential homes. He stated there was no difference between the two pictures. He believed Peachtree Plaza should be allowed to have restaurants in the B-1 Zoning District. He pointed out that Cottage Inn Pizza did exist at the Peachtree Plaza for 15 years and there were no problems there due to its tenancy. He stated in his request, the Planning Commission approved his request allowing restaurants in the B-1 District. To his regret they included the Special Land Use provision. He felt with that provision perspective restaurants must pay a fee and it would take a tremendous amount of time. He submits that this is a non-starter. He emphasized he has over 33 years of experience in commercial real estate and confirmed this as the lack of success in finding entrepreneurs who would be willing to submit to this. Restaurateurs will not submit to this approval process. He said a developer might, they have tremendous resources, but restaurateurs they will not. Restaurant business owners don't understand Special Land Use and they refuse to be educated about it. They just move on to another site in another city. He wondered how the Planning Commission will deal with it. Will a deli be allowed if it doesn't toast the bread? How far should the reach of government be allowed to extend? To help bridge the government culture of wanting to help preserve its role as the defender of residents in the area versus the private sector that looks for a niche to serve the public, he offered the following compromise. He created a substitute motion on page 1 of the packet he provided. He believed he could attract maybe one or two food uses; help centers in the B-1 District meet their economic potential, and yet limit the impact on the neighborhood. He asked for City Council to consider allowing small business in the form of restaurants to come to the B-1 District without the Special Land Use provision. He thanked Council for their consideration.

Member Mutch wondered if there would be notification regarding the proposed change sent out to residents in that area. It was noted earlier that all of these locations about single family homes, in particular 10 Mile and Meadowbrook Road. City Planner

McBeth stated if the amendment is modified, staff recommended neighbors within 300 feet of the proposed restaurant would be notified of the request. We would also advertise in the local paper and City Council Agendas would have the information. Member Mutch clarified with City Planner McBeth that at this time residents have not been notified of what the Planning Commission is contemplating. She said in this particular case they understood that it would primarily impact the Peachtree Plaza; they did notify the residents within 300 feet of this text amendment. Member Mutch wondered how this will work, will they have limits on hours of operation that are adjacent to residential. She said there is nothing in the ordinance in regards to that. He wondered if that was considered during the review process. She said they did consider that, they thought it was a little bit of additional protection not to put that in the ordinance itself, but to include the Special Land Use provisions so that could be explored as part of the process. Member Mutch wondered if through the Special Land Use, if the Planning Commission could impose hours of operation. City Planner McBeth replied yes, that is correct. He indicated that we would want to provide some guidance on that if it was approved. He mentioned a couple of the locations that this is being proposed it seems like the 10 Mile and Meadowbrook is where the uses are being proposed, but the zoning text amendment would apply to all B-1 Zoning Districts. He pointed out there would be a potential for anywhere we have B-1 Zoning that is not otherwise limited, such as 10 Mile and Beck, that someone could come in and put in a restaurant use. He thought some of those buildings looking again at Peachtree Plaza look fairly close to some of the adjacent residential uses. He wondered if staff looked at that in terms of distance. City Planner McBeth said looking at a map that she assumed was in their packet, she said it was 35 to 40 feet from the rear yard of some of those homes. She said there is an access road and some parallel parking, it may be 30 feet to the back of the building. Member Mutch said he understood Mr. Brateman's concerns regarding the challenges he has to try to match tenants with the spaces in these centers. The problem with this shopping center goes back to when it was built, because it probably was not the place to build that much retail in the first place. He pointed out that the big challenge is that we want these retail centers filled and occupied, but if a restaurant use doesn't work here, there is no guarantee that will fix that problem. He pointed out that now we have opened up the potential to allow these restaurant uses that are adjacent to residential. He noted he always likes to look at it in a perspective of "what if this was my house" backing up to the center. If he would have bought his home with the understanding that yes there is a retail center there, but it doesn't allow restaurant uses, would he want that in his back yard. He said he likes having restaurants near him, but he doesn't want a restaurant right next to him. He believed it would be true for many residents. He understood Mr. Brateman's goal is to have a streamline process as possible, and that he is not going to get tenants if they have to jump through a bunch of hoops. He explained at the same time our job is to balance those interests. He agreed that some restaurant uses could coexist, but there is no guarantee about that. Once that use is in there, if it does cause problems, it is a lot harder to deal with it then to not create a situation where it could be a problem in the first place. He said he generally takes on a conservative viewpoint airing on the side of protecting the residents from potential impacts of a use that may not be compatible versus opening up the ordinance in a way that it is suggested.

Member Markham said she was in support of trying to bring some small restaurants into B-1 developments around our city. She said we talk about walkability, a lot of areas in the city there is no place to walk to. She said if she lived in a subdivision and there was a little restaurant she could walk to, that would be a good thing. She suggested if we approve this that we not have it have to be a Special Land Use every time a new little restaurant comes. If we believe there should be some restrictions as to hours of operation, or how much area of the total development or gross floor area, it belongs in the B-1 ordinance itself. She was opposed to a Special Land Use being a requirement every time the little restaurant becomes the pizza restaurant, and becomes the coffee shop. She didn't want us to go through Special Land Use discussions every time that happens. She said she was in support of doing something with this ordinance to allow these small restaurants in the B-1 shopping centers. If we think there should be restrictions then let's do it in the higher level within the B-1 Zoning District and not have the Special Land Use.

Member Breen agreed with both of her colleagues on a few aspects. She thought it needed to be easier for small businesses to get a foothold here in Novi. She didn't think that imposing an extra \$500 fee was conducive to making things easier for small business owners. She was concerned that only the residents around the Peachtree Plaza receive notification. She was hoping that the residents in the six other areas that were noted would receive notification also. In general she would like to see something happen with this ordinance in order to make sure that the residents are afforded the opportunity to speak, but also make it a little easier for small businesses to get a foothold in Novi.

Mayor Pro Tem Staudt mentioned three years ago he decided to get an office in Novi. He said ironically the first place he went was this particular development. He offered what he thought was a very fair rent, and was rebuffed, they said they would rather leave it empty than have someone come in at a lower price. He ended up going to another place and negotiated a price. That is one of the problems in Novi, but we have a lot of buildings where small business owners can go. He said during his 11 years on Council, he has had many residents bring that up, for an example 10 Mile and Beck, this particular situation doesn't include that. That has come up at least two or three times during his term and is extremely emotional for those who live there. In that situation it was opening up a consent agreement and they made it much easier to turn it away. He was concerned about giving free reign depending on the size of the restaurant without allowing the residents to have some type of input. He reiterated that this was the first reading and he has listened to his colleagues. He understood that \$500 was a lot of money, a lot of delay, and as someone that has rented would not have wanted to go through that at all. He said he really wanted to think this through. He said that 4800 square feet or 20% was a pretty good size restaurant; we are not talking about a small carry out. He thought about Main Street and all the empty stores, he would like to fill those areas before putting them in pockets of neighborhoods. He understood the perspective, he was willing to move it through, but he wasn't sure he could agree on it long term.

Member Wrobel echoed his colleagues and would like to make it easier for small businesses to come into Novi. He stressed it was very important that we take into consideration the needs of the residents surrounding the area. He said they have been there a lot longer than the shopping centers have. He said he was willing to move this forward, but he could not support it as it is. We will have to have some checks and balances to make sure it is easier for the businesses to come in, but also for the homeowners needs are taken care of also. They need some say in the process.

Member Casey echoed her colleagues also. She too struggled with this one. There is a balance that is being asked, and it is hard to want to put some sort of restriction on a small business coming in. She made it clear that they were not talking about 10 Mile and Beck, yet we have heard from the residents who about 10 Mile and Beck with their concerns about putting restaurants in. She said when you look at the footprint of that plaza to the residents, she ventured to say as close as what we are talking about here and their concerns have also resonated with her. She was willing to pass this through the first reading, she wanted to make sure the needs of those residents are protected and that they get the chance to come in to present their point of view to the Planning Commission. She noted she was not sure if she would approve a second reading if she did not see some additional changes and additional conversation on the topic.

Mayor Gatt said he will support the first reading, but he will not support a second reading. He noted that in order for an ordinance to pass or change, there has to be two readings. The first reading sends a message to the Administration as to what the Council is thinking and what their hopes are. They come back at the next meeting with a second reading. If it passes the second reading then it becomes part of the ordinance. He will not agree to the ordinance as it is being presented. He would never agree to force a restaurant owner to pay \$500 extra to come before the city and get a Special Land Use Permit. There has to be some sort of compromise. Everyone said the same thing; we have to protect the residents. Second we need to protect the city, we want business to operate here. We want our shopping centers to thrive. Peachtree Plaza is in his backyard. It has been a thorn in the resident's side in that area of the city for a very long time. He agreed that it should have never been built, but it is built. We have to make sure that it stays healthy and is thriving without hampering the residents' ability and right to live in a residential area. He said he had some ideas, but he didn't have an answer. He said maybe we come up with an ordinance that a landowner or business owner comes to Council for approval, with all the paperwork, and all the residents that live near the shopping center would have a say so that we can make an informed decision. He didn't want it to cost a lot of extra money or time. He thought it might be a good compromise. As it stands now, he will not support the second reading unless there are a lot of changes.

CM 18-04-045 Moved by Wrobel, seconded by Casey; MOTION CARRIED: 6-1

**To Approval of Zoning Ordinance Text Amendment 18.286 to
amend the City of Novi Zoning Ordinance at Article 3, Zoning**

**APPLICANT'S UPDATED
EMAIL WITH
ORDINANCE DRAFT
SECOND READING**

From: [Jonathan Brateman](#)
To: [Auger, Peter E.; thegatter@aol.com](#); [Staudt, Dave](#); [Mutch, Andrew](#); [Wrobel, Wayne](#); [Casey, Laura](#); [gmarkham@cityofnovi.org](#); [Breen, Kelly](#)
Subject: B-1 Text Amendment changes
Date: Sunday, May 6, 2018 12:26:27 PM
Attachments: [Draft of B-1 changes.docx](#)

Thank you for listening to me at a recent City Council meeting on my response to the change to the B-1 Zoning Ordinance as suggested by the Planning Commission to include restaurant and fast food use.

While I appreciate the Planning Commission efforts and those of City Staff, I am appealing you to allow at least limited restaurant and fast food types without special land use for the very small presence(s) and leaving special land use for an additional usestill restricting the total in any event to under 20% of the total footage.

Please see my attachment. If you have any question, or could give me positive reinforcement and encouragement, I would appreciate it.

Jonathan Brateman
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Applicant's Request May, 2018:

Draft: Concept of B-1 Ordinance to allow for Restaurants

Restaurants and Fast Food Establishments shall be allowed in the B-1 zoning district as a Permitted Use provided:

1. The total gross area of the food establishments shall not exceed 14 % of the gross floor area of the shopping center
2. The hours of operation open to the public shall begin after 6:00 am and not after 11:00 pm. Exception to this being Pizza, where the business can stay open until 1:00 AM.
3. The area for the dumpster must be in front of the shopping center and not directly contiguous to the residents
4. Grilling and Smoking food outside the building will not be allowed

A Second Restaurant Use could only be approved without Special Land Use :

- 1 If the size of the two restaurants together were less than 14 % of the 25,000 (at Peachtree) or 3500 sf. For example a restaurant of 1145 sf and another one of 1260 sf without special land use.
2. In the event there is more than one tenant in the food establishment business, there proximity must have a buffer tenant(s) of no less than 60 feet between kithcens.
3. Other provisions would apply.

Restaurants and Fast Food Establishments will be allowed under Special Land Use consideration if they :

1. Desire to be in a shopping that has a food establishment existing within the 14 % of total gross floor area but the additional footage of an existing restaurant or new restaurant will not cause the cap to exceed 20 % of the total gross floor area.

Example:

Total Gross Floor Area of 25,000 sf x 20% = 5000 sf

First Restaurant Use: 2500 sf which is 10 % of the total gross floor area and did not need special land use.

Second Proposed Restaurant: 1350 sf which is 5.4 % of the shopping center

This could be allowed under Special Land Use because, while it exceeds 14 % but its size along with the first use is still under 20%.

2. Other provisions above apply.