



# CITY of NOVI CITY COUNCIL

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**Agenda Item 7  
October 8, 2007**

**SUBJECT:** Consideration of Zoning Ordinance Text Amendment 18.220, to amend Ordinance No. 97-18, as amended, the City of Novi Zoning Ordinance, at Article 16, TC and TC-1, Town Center Districts, to permit instructional centers. **First Reading**

**SUBMITTING DEPARTMENT:** Community Development - Planning

**CITY MANAGER APPROVAL:**

## **BACKGROUND INFORMATION:**

The Community Development Department recently received a request from Jonathan Brateman to amend the permitted uses in the TC and TC-1, Town Center districts. Mr. Brateman is requesting a modification to the ordinance to allow instructional centers for such uses as music, art, dance, crafts, martial arts, exam preparation and similar instruction. The appropriate section to add this language would be to Section 1601, Principal Uses Permitted.

Staff has reviewed the language provided by the applicant and has not identified any concerns regarding the proposed text amendment. The proposed language for instructional centers in the TC districts is identical to the language already provided in the B-1, Local Business District, Section 1301.8. It is noted that this use also carries over to the B-2 and B-3 districts, but instructional centers are not currently listed in the TC districts as a permitted use. The Town Center districts already permit a number of commercial uses and recreation centers that would be compatible with the proposed instructional centers.

The Planning Commission reviewed the proposed language at a public hearing on September 5<sup>th</sup> and issued a positive recommendation to the City Council for the proposed text amendment. The City Attorney has reviewed the request and had no comment. Please find attached a draft of Text Amendment 18.220 and relevant Planning Commission minutes.

Earlier this Summer, a similar text amendment request was approved by the City Council to allow instructional centers in the NCC, Non-Center Commercial district. That request had initially included modifications to the daycare provisions for that district, but the daycare part of the request was subsequently withdrawn by the applicant. The Planning Commission and staff were not in support of the daycare modifications since the proposed language would add a fifth class to the daycare provisions of the ordinance that would only be found in one district, and the provisions would have been very difficult for the City to enforce. Considerable additional discussion ensued regarding the daycare use after the NCC text amendment was approved by the City Council. Staff prepared a memo with an interpretation of the daycare provisions for the proposed ENA School which was proposing to locate in the Grand Oaks Center (see attached memo dated September 24, 2007). After further discussion, the applicant modified the request for the tenant modifications which would limit the use of the facility to school-aged children until special land use approval is granted for the daycare facility. At this time, permits for the tenant modifications for ENA have been issued so it is expected that the school will be able to open at the Grand Oaks Center in the near future.

While the TC, Town Center text amendment request before City Council at this time does not include any modifications to the daycare provisions, staff would like to point out that the TC districts currently permit daycare facilities, subject to the provisions of Section 1102.4. Based on the department's interpretation of the ordinance regarding the NCC district, and the fact that the TC districts currently have standards for review of daycare facilities, staff does not believe that any further modifications to the standards for daycare facilities are needed at this time.

**RECOMMENDED ACTION:** Approval of Zoning Ordinance Text Amendment 18.220, to amend Ordinance No. 97-18, as amended, the City of Novi Zoning Ordinance, at Article 16, TC and TC-1, Town Center Districts, to permit instructional centers. **First Reading**

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

	1	2	Y	N
Council Member Mutch				
Council Member Nagy				
Council Member Paul				

**PROPOSED ORDINANCE AMENDMENTS – STRIKE VERSION**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 07 - 18 - 220

**AN ORDINANCE TO AMEND ORDINANCE NO. 97-18, AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE, AT ARTICLE 16, TC AND TC-1, TOWN CENTER DISTRICTS, TO PERMIT INSTRUCTIONAL CENTERS**

**THE CITY OF NOVI ORDAINS:**

**Part I.** That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amended, Article 16. TC and TC-1, Town Center Districts, at Section 1601 Principal Uses Permitted, is hereby amended to read as follows in its entirety:

In the TC and TC-1 Town Center Districts, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided for in this Ordinance:

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

12. [Unchanged.]

13. [Unchanged.]

14. Instructional Centers for music, art, dance, crafts, martial arts, exam preparation and similar instruction.

← - - - - Formatted: Bullets and Numbering

15. Other uses similar to the above uses subject to conditions noted.

16. Accessory structures and uses customarily incidental to the above permitted uses.

**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.** 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 Ordinances or parts of Ordinances 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 NOVI CITY COUNCIL THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

\_\_\_\_\_  
DAVID LANDRY – MAYOR

\_\_\_\_\_  
MARYANNE CORNELIUS – CITY CLERK

1. Date of Public Hearing \_\_\_\_\_
2. Date of Adoption \_\_\_\_\_
3. Date of Publication of  
Notice of Adoption \_\_\_\_\_

**CERTIFICATE OF ADOPTION**

I hereby certify that the foregoing is true and complete copy of the Ordinance passed at the \_\_\_\_\_ meeting of the Novi City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
MARYANNE CORNELIUS – CITY CLERK

**PROPOSED ORDINANCE AMENDMENTS – CLEAN VERSION**

**STATE OF MICHIGAN**

**COUNTY OF OAKLAND**

**CITY OF NOVI**

**ORDINANCE NO. 07 - 18 - 220**

**AN ORDINANCE TO AMEND ORDINANCE NO. 97-18, AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE, AT ARTICLE 16, TC AND TC-1, TOWN CENTER DISTRICTS, TO PERMIT INSTRUCTIONAL CENTERS**

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

12. [Unchanged.]
13. [Unchanged.]
14. Instructional Centers for music, art, dance, crafts, martial arts, exam preparation and similar instruction.
15. Other uses similar to the above uses subject to conditions noted.
16. Accessory structures and uses customarily incidental to the above permitted uses.

**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.** 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.

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MADE, PASSED AND ADOPTED BY THE NOVI CITY COUNCIL THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

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DAVID LANDRY – MAYOR

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MARYANNE CORNELIUS – CITY CLERK

1. Date of Public Hearing \_\_\_\_\_
2. Date of Adoption \_\_\_\_\_
3. Date of Publication of  
Notice of Adoption \_\_\_\_\_

**CERTIFICATE OF ADOPTION**

I hereby certify that the foregoing is true and complete copy of the Ordinance passed at the \_\_\_\_\_ meeting of the Novi City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
MARYANNE CORNELIUS – CITY CLERK

**DRAFT PLANNING COMMISSION MINUTES EXCERPT SEPTEMBER 5, 2007**



**PLANNING COMMISSION**  
REGULAR MEETING  
WEDNESDAY, SEPTEMBER 5, 2007 7:00 PM  
COUNCIL CHAMBERS - NOVI CIVIC CENTER  
45175 W. TEN MILE, NOVI, MI 48375  
(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

**Absent:** Member Wayne Wrobel (excused)

**Also Present:** Barbara McBeth, Deputy Director of Community Development; Kristen Kapelanski, Planner; Karen Reinowski, Planner; Ben Croy, Civil Engineer; Dr. John Freeland, Wetland Consultant; Kristin Kolb, City Attorney

**PUBLIC HEARINGS**

**2. ZONING ORDINANCE TEXT AMENDMENT 18.220**

The Public Hearing was opened on Planning Commission's recommendation to City Council for an ordinance to amend Ordinance No. 97-18, as amended, the City of Novi Zoning Ordinance, for modifications to Article 16, TC and TC-1 Districts, Section 1601, Principal Permitted Uses, to allow instructional centers.

Planner Kristen Kapelanski stated that the proposed change to Section 1601, TC and TC-1 Districts, came from Jonathan Brateman. This new language would provide instructional centers such as music, art, dance, crafts and other similar uses to be permitted in the Town Center districts. Staff does not see any issues with the request at this time. This language is the same as the B-1, B-2 and B-3 Districts' language. Given the fact that the Town Center districts already provide for a number of commercial and recreational uses that would be compatible with the proposed uses, Staff has no objections.

Jonathan Brateman of Jonathan Brateman Properties addressed the Planning Commission. He provided the Planning Commission with some review materials. He said that the B-1 Ordinance was amended to include this use at the request of someone who owned B-1 property. That person did not ensure that the language was also added to the TC and TC-1 districts. This omission went on the radar.

Mr. Brateman said it was a community benefit to provide instructional centers. People of all ages can learn, explore and better themselves. This use would not result in a greater traffic pattern than a restaurant or ice cream store. No useful purpose would be served by denying increased education in the community. He sought the support of the Planning Commission.

Chair Cassis opened the floor for public comment:

- Mr. Hafeez Shaik, part-owner of the Main Market building: Has fielded several calls from prospective tenants regarding educational facilities. He has lost some prospects because of the omission of education facilities in the TC and TC-1 districts. This change would help him get more tenants for his building.

Chair Cassis closed the Public Hearing.

Member Pehrson thought the request was valid and that it posed no detriment. It achieves the goal of bringing people into the heart of the City. He didn't see a traffic problem with the request. This change brings the Ordinance up to date and addresses the changes in the marketplace.

Moved by Member Pehrson, seconded by Member Burke:

**In the matter of Zoning Ordinance Text Amendment 18.220, motion to send a positive recommendation to City Council for the approval of the proposed text amendment.**

**DISCUSSION**

Chair Cassis thought that this was an acceptable update to the City's Ordinance. He appreciated Mr. Brateman's expertise.

**ROLL CALL VOTE ON ZONING ORDINANCE TEXT AMENDMENT 18.220 MOTION MADE BY MEMBER PEHRSON AND SECONDED BY MEMBER BURKE:**

**In the matter of Zoning Ordinance Text Amendment 18.220, motion to send a positive recommendation to City Council for the approval of the proposed text amendment.**  
*Motion carried 7-0.*

**PLANNING COMMISSION MINUTES EXCERPT AUGUST 22, 2007**

PLANNING COMMISSION  
REGULAR MEETING  
ACTION SUMMARY  
WEDNESDAY, AUGUST 22, 2007 7:00 PM  
COUNCIL CHAMBERS - NOVI CIVIC CENTER  
45175 W. TEN MILE, NOVI, MI 48375  
(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, Andrew Gutman, Michael Lynch, Michael Meyer, Wayne Wrobel

**Absent:** Members John Avdoulos (excused), Mark Pehrson (excused)

**Also Present:** Stephen Rumble, Community Development Director; Barbara McBeth, Deputy Director of Community Development; Kristen Kapelanski, Planner; David Beschke, Landscape Architect; Ben Croy, Civil Engineer; Alan Hall, Façade Consultant; Doug Necci, Façade Consultant; Kristin Kolb, City Attorney

**MATTERS FOR CONSIDERATION**

**Set a Public Hearing for September 5, 2007 for Zoning Ordinance Text Amendment 18.220, for modifications to Article 16, TC and TC-1 Districts, Section 1601, Principal Permitted Uses to allow instructional Centers**

**In the matter of Zoning Ordinance Text Amendment 18.220, motion to set a Public Hearing date of September 5, 2007. *Motion carried 6-0.***

**APPLICANT'S REQUEST**

## Fax from Jonathan Brateman Properties

July 25, 2007

TO: George Keros  
FROM: Jonathan Brateman

SEE ATTACHED  
CHECK FROM  
GEORGE KEROS  
AUTHORIZING MY  
REPRESENTATION. JB

Please note that "Instruction Centers" is included in the B-1, but not included in the TC and TC-1 ordinance. I am asking for \$ 500 each from major property owners in the area to file a text amendment change for the TC and TC-1 zoning district, in which you are a part. By succeeding with this, we won't have to pro-actively file a variance or seek a text amendment when you have a potential tenant.

I was successful doing this for the NCC district.

Please refer to both websites:

[www.bratemanproperties.com](http://www.bratemanproperties.com) and

[www.municipalapplicationconsulting.com](http://www.municipalapplicationconsulting.com)

Thank you.

Total Pages ( including this ) : 5

Jonathan Brateman Properties

Phone (248) 477-5000

Fax: (248) 477-8730

email: JBrateman@aol.com

Text Change Sought as an Amendment to the Novi Zoning Ordinance:

Article 16. TC AND TC-1 TOWN CENTER DISTRICTS

14. Instructional Centers for music, art, dance, crafts, martial arts, exam preparation and similar instruction.

Renumber points 14. and 15. to points 15. and 16.

PLEASE REFER TO HIGHWAY  
ALEX ON PAGE 4.

## ARTICLE 16. TC AND TC-1 TOWN CENTER DISTRICTS

### Sec. 1600. Intent.

The TC and TC-1 Town Center Districts are designed and intended to promote the development of a pedestrian accessible, commercial service district in which a variety of retail, commercial, office, civic and residential uses are permitted. Each use shall be complementary to the stated function and purpose of the Districts and shall not have adverse impact upon adjacent street capacity and safety, utilities, and other City services.

The TC and TC-1 Town Center Districts are further designed and intended to discourage the development of separate off-street parking facilities for each individual use, and to encourage the development of off-street parking facilities designed to accommodate the needs of several individual uses. Furthermore, it is recognized that uses which have as their principal function the sale or servicing of motor vehicles, such as automobile service stations, car washes, or new and used motor vehicle sales or service establishments, and drive-in restaurants and restaurants with drive-through facilities, have a disruptive effect on the intended pedestrian orientation of the districts.

The TC-1 District is especially designed to encourage developments of an urban "Main Street" with mixed land uses and shared parking. Flexible regulations regarding streetscape design, landscape design, provision of parking facilities, architectural and facade design, residential dwelling units, and setback standards are intended.

### Sec. 1600A. Definitions.

The following definitions shall apply in the interpretation of this Article.

*Mixed-Use Building:* A single structure containing two or more principal uses, e.g. retail and multi-family, with uses physically attached either vertically or horizontally.

*Mixed-Use Development:* A development plan containing both residential and non-residential land uses on one or more parcels of land, submitted together on a single approved site plan, having coordinated design, access and circulation, landscape and streetscape amenities, pedestrian connections, and similar unifying features, where such plan, once approved, may not be modified thereafter without approval of the City through site plan amendment. To qualify as a "mixed-use development," a project must meet the following requirements:

1. Non-residential uses shall comprise at least twenty (20) percent of either 1) the net site area or 2) the total gross floor area of all buildings and not be considered accessory to another principal permitted use.
2. A development with both conventional multi-family and senior, age-qualified, or independent multi-family uses shall not be considered mixed-use unless a non-residential use is also included.
3. A performing arts facility, unconditionally dedicated to the public use, under a separate agreement with the City, shall be considered a second use, provided that it is a fully enclosed structure with a minimum of 500 seats.

(Ord. No. 18.204, Pt. I, 7-10-06)

### Sec. 1601. Principal Uses Permitted.

In the TC and TC-1 Town Center Districts, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided for in this Ordinance:

1. Any principal use permitted in the B-1 District as follows:
  - a. Generally recognized retail businesses which supply commodities on the premises, such as but not limited to: groceries, meats, dairy products, baked goods or other specialty food products (excluding all restaurants), drugs, dry goods, clothing and notions or hardware. Retail sales may be conducted outdoors on sidewalks, provided: (1) at least six (6) feet of sidewalk width is clear for pedestrian traffic; and (2) all merchandise and equipment is kept indoors during non-business

hours.

b. Personal service establishments which perform services on the premises, such as but not limited to: repair shops (watches, radio, television, shoe and etc.), tailor shops, beauty parlors or barbershops, photographic studios, and self-service laundries and dry cleaners.

c. Dry cleaning establishments, or pick-up stations, dealing directly with the consumer. Central dry cleaning plants serving more than one retail outlet shall be prohibited.

d. Business establishments which perform services on the premises, such as but not limited to: banks, loan companies, insurance offices and real estate offices.

e. Professional services including the following: offices of doctors, dentists and similar or allied professions.

f. Post office and similar governmental office buildings, serving persons living in the adjacent residential area.

g. Off-street parking lots.

2. Any principal use permitted in the B-2 District as follows:

a. All retail business, service establishments or processing uses as follows:

(1) Any retail business whose principal activity is the sale of merchandise in an enclosed building.

(2) Any service establishment of an office, showroom or workshop nature of an electrician, decorator, dressmaker, tailor, baker, painter, upholsterer or an establishment doing radio or home appliance repair, photographic reproduction, and similar service establishments that require a retail adjunct.

(3) Restaurants or other places serving food or beverage, except those having the character of a drive-in or having a drive-through facility.

(4) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.

(5) Business schools and colleges or private schools operated for profit.

b. Private clubs, fraternal organizations, lodge halls and similar organizations.

3. Offices and office buildings.

4. Public and quasi-public uses such as municipal offices, court houses, public off-street parking facilities, libraries, museums, public safety facilities and fraternal organizations.

5. Indoor commercial recreation facilities such as health clubs, hand ball and racquet ball facilities, pool and billiard establishments, bowling alleys, tennis, batting, archery and soccer facilities.

6. Outdoor theaters, plazas, parks, public gathering places, including those along a river walk, and like public facilities.

7. Hotels.

8. Reserved.

9. Financial institutions, provided that such institutions shall not have drive-thru teller or ATM facilities as the principal use of the premises.

10. Residential dwellings, provided the following conditions are met:

a. Single family detached dwellings shall meet requirements for the R-4 District.

b. Multiple housing dwelling units and attached single family units (i.e., cluster housing, duplex, townhouse) shall meet requirements of the RM-1 District and/or cluster housing option as modified herein.

In a multiple-family development within the TC and TC-1 Town Center Districts the total number of rooms (not including kitchen, dining and sanitary facilities) shall not have more than the area of

c. Business and office uses may occupy a building used for residential uses provided that no such business or office use may be located on same floor as used for residential purposes, and no floor may be used for business or office use on a floor located above a floor used for residential purposes. Further, where there is mixed business/office and residential use in a building there shall be provided a separate, private pedestrian entranceway for the residential use.

d. All buildings fronting onto a publicly dedicated roadway shall have non-residential uses on the first floor.

e. Off-street parking shall either be provided within the building, within a parking structure physically attached to the building, or in a designated off-street parking area within three hundred (300) feet of the building.

f. Open space as set forth in Section 2400, Footnote (f) shall be provided for each multiple dwelling unit. The dimensional requirements for roof-top open space may be modified where such dimensions cannot be met due to the size of the building.

11. Day Care Centers and Adult Day Care Centers provided that all of the conditions contained within subsection 1102.4 are met.

12. Microbreweries, subject to the following conditions:

a. Brewery production shall not exceed twenty thousand (20,000) barrels per year.

b. No storage in any detached, separate container (e.g., a silo) for hops, barley, wheat or other grain used in the brewing process shall be permitted. No open storage of bottles, pallets or other containers shall be permitted. No storage in tractor trailers shall be permitted longer than twenty-four (24) hours and only if such is conducted when attached to a motorized cab. All such storage shall be totally within walls of establishment.

c. There shall be compliance with standards at Section 2519, Performance Standards. Steam condensation units shall be required on all venting.

d. There shall be included a restaurant having a minimum seating occupancy of at least one hundred twenty-five (125) persons which shall provide full lunch and dinner meal service for consumption by patrons while seated on the premises, and not merely sandwiches and snacks. (See also definition of Restaurant (sit down)).

e. No more than sixty-five (65) percent of total gross floor space of the establishment shall be used for the microbrewery function such as the brewhouse, fermentation tanks, conditioning tanks, bright beer tanks/filter, bottling and kegging lines, malt milling/storage, serving tanks and boiler/water treatment areas.

f. Owing to unique features and operational requirements of a microbrewery, off-street loading/unloading facilities shall be designed to accommodate at least two (2) tractor trailers at one time in addition to compliance with standards at Section 2507.2.

g. No outside beer tent shall be permitted on any off-street parking lot or off-street loading/unloading area except as may be permitted as a temporary tent sale use pursuant to Section 3004 of this Ordinance. Outside table serving may be permitted on a plaza providing proper handicapped sidewalk and ramp access is provided and subject to the requirements of Section 2524, Outdoor Restaurants.

h. No microbrewery shall be located closer than two thousand five hundred (2,500) feet of another microbrewery.

13. Brewpubs, subject to the following conditions:

a. Brewery production shall not exceed two thousand (2,000) barrels per year.

b. No storage in any detached, separate container (e.g., a silo) for hops, barley, wheat or other grain used in the brewing process shall be permitted. No open storage of bottles, pallets or other containers shall be permitted. No storage in tractor trailers shall be permitted longer than twenty-four (24) hours and only if such is conducted when attached to a motorized cab. All such storage

shall be totally within walls of establishment.

c. There shall be compliance with standards at Section 2519, Performance Standards.

d. There shall be included a taproom/restaurant having a minimum seating occupancy of at least one hundred twenty-five (125) persons which shall provide full lunch and dinner meal service for consumption by patrons while seated on the premises, and not merely sandwiches and snacks. (See also definition of Restaurant (sit down)).

e. No more than fifty (50) percent of total gross floor space of the establishment shall be used for the brewery function such as the brewhouse, fermentation tanks, conditioning tanks, bright beer tanks/filter, bottling and kegging lines, malt milling/storage, serving tanks and boiler/water treatment areas.

f. No outside beer tent shall be permitted on any off-street parking lot or off-street loading/unloading area except as may be permitted as a temporary tent sale use pursuant to Section 3004 of this Ordinance. Outside table serving may be permitted on a plaza providing proper handicapped sidewalk and ramp access is provided.

14. Other uses similar to the above uses subject to conditions noted.

15. Accessory structures and uses customarily incidental to the above permitted uses.

(Ord. No. 2004-18.167, Pt. XII, 4-5-04; Ord. No. 18.204, Pt. IV, 7-10-06; Ord. No. 18.211, Pts. III, IV, 12-4-06)

## **Sec. 1602. Schedule of Regulations/Required Conditions.**

The following standards shall apply to all uses permitted in the TC and TC-1 Districts:

1. *Site Plans.* For all uses permitted in the TC and TC-1 Town Center Districts, site plans shall be submitted for preliminary approval by the Planning Commission, in accordance with the provisions of this ordinance and other applicable ordinances. In those instances where the site under development is five acres or more in area, preliminary site plan approval shall be by the City Council after review and recommendation by the Planning Commission.

2. *Height.* The maximum height of structures shall not exceed five (5) stories or sixty-five (65) feet in height, except in the TC-1 district as provided below:

a. Buildings within the TC-1 district may exceed five (5) stories or sixty-five (65) feet in height, but may not exceed five (5) stories and seventy-eight (78) feet in height. Buildings exceeding sixty-five (65) feet in height shall have a minimum of one hundred and fifty (150) feet of building frontage on a roadway no less than twenty-eight (28) feet wide, constructed in accordance with all applicable City standards.

b. Mixed-use buildings within the TC-1 district which are designed with retail or office uses on the first floor may be permitted an additional height bonus, subject to review and recommendation by the Planning Commission and approval by the City Council, as provided in subsection (e) below. For each additional floor of office or retail use above the first floor, an additional floor of residential use may be permitted, with the total building height, including all bonuses, not to exceed seven (7) stories or one hundred and four (104) feet. All other standards of the ordinance apply to the height bonus, including setback, parking, landscaping, density, and subsection (a) above.

c. Residential buildings within the TC-1 district which are not located on a publicly dedicated roadway may be permitted to have parking on the ground level of the building. Such parking level shall not count against the maximum story requirement. The parking inside the building must be aesthetically and effectively screened from view through architectural design, landscaping, or other means, from adjacent drives, walkways and buildings, and particularly from the street level view.

d. In all cases, the maximum height shall include all rooftop appurtenances, architectural features, skylights, or other such roof mounted building amenities.

e. For all buildings exceeding five (5) stories or sixty-five (65) feet in height within the TC-1

**COMMUNITY DEVELOPMENT DEPARTMENT'S  
INTERPRETATION OF ZONING ORDINANCE  
REGARDING DAYCARE FACILITIES IN NCC DISTRICT**



MEMORANDUM

TO: Clay J. Pearson, City Manager

FROM: <sup>Baugh</sup> Barbara McBeth, AICP, Deputy Director of Community Development

DATE: September 24, 2007

SUBJECT: Interpretation of Zoning Ordinance for ENA's proposed use of tenant space in the Grand Oaks Center

9-27-07  
To: Mayor and City Council Members

FYI; follow up to item Mr. Bratenon brought up at City Council meeting. The school has since amended their request w/ 9/21 letter to defer pre-school aged kids (they'll apply for special land use) and proceed with older kids now which is O.K.

The Planning Division is in receipt of correspondence from ENA, a preparatory school system with facilities located throughout the United States, in Japan and in other countries throughout the world. Initial correspondence from ENA indicates that the use of tenant space within the Grand Oaks Center is proposed to include tutorial and counseling services to children 2 ½ to 18 years of age. The applicant's representative, Harold B. Woolfark, has indicated that the use should not be considered a daycare, even for the young children, through the following information (emphasis added):

"ENA is a Japanese tutorial school. It does not engage in day-care in any form. When pre-school children are brought to an ENA facility, they are accompanied by a parent or caretaker. The children then receive instruction for 1-2 hours. When instruction is completed, the children leave the premises. The experience is no play time, no sleep time, no snack time and no other "day-care type" service."

The Community Development Department has researched Novi's ordinances for consideration of the portion of the facility that would be used by pre-school students to determine whether this use constitutes a "Day Care Center" under our ordinance. It continues to be our professional opinion that Novi's ordinances include the care and instruction of children of this age group as a "Day Care Center". Please note that the definition provided in the ordinance has identified nursery schools as a facility that would be considered a Day Care Center (emphasis added): \*

*Day Care Center* : A facility, other than a private residence, receiving one (1) or more minor children who are given care and supervision for the time period set forth in this ordinance, unattended by a parent or legal guardian. Overnight care shall not be provided. The facility is generally described as a day care center, child care center, day nursery, nursery school, parent cooperative preschool, play group or drop-in center. Day Care Center does not include any of the following:

1. A Sunday school, a vacation bible school or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three (3) hours per day for an indefinite period, or not more than eight

- (8) hours per day for a period not to exceed four (4) weeks during a twelve (12) month period.
2. A facility operated by a religious organization where children are cared for not more than three (3) hours while persons responsible for the children are attending religious services. (Ord. No. 2004-18.167, Pt. II, 4-5-04)

Also, the Planning Division notes that the NCC, Non-Center Commercial District permits Day Care Centers with Special Land Use Approval granted by the Planning Commission, and subject to the following standards:

*Day Care Centers and Adult Day Care Centers, subject to the standards contained in 402.4.b., except that Day Care Centers may accommodate in excess of fifty (50) children, and Adult Day Care Centers may exceed twenty-five (25) persons.*

The following are the standards for Day Care Centers contained in Section 402.4.b:

- b. *Day Care Centers accommodating no more than fifty (50) children, and Adult Day Care Centers accommodating no more than twenty-five (25) persons, subject to the following:*
- (1) *Outside recreation area required, as follows:*
    - (a) *For each person cared for, there shall be provided and maintained a minimum of one hundred fifty (150) square feet of outdoor recreation area.*
    - (b) *Such recreation area shall have a total minimum area of not less than two thousand eight hundred (2800) square feet.*
    - (c) *The recreation area shall be securely fenced and screened from any adjoining lot in any residential district, with appropriate fence and landscape materials as reviewed by the City's Landscape Architect to provide opaque screening for the outside activities. These screening requirements are in addition to the requirements of Section 2509.*
  - (2) *The minimum parcel size for a Day Care Center or Adult Day Care Center shall be one (1) acre.*
  - (3) *The hours of operation shall be limited to the period between 6 a.m. and 7 p.m.*
  - (4) *The parcel shall abut and have access to a major thoroughfare or section line collector road. The driveways shall be designed so that vehicles can exit the site without having to back onto a major thoroughfare.*
  - (5) *The licensee shall register with the City Clerk and the licensed premises may be subject to a fire department inspection and shall provide a smoke detector in all daytime sleeping areas.*
  - (6) *Any refuse bins or outside trash receptacles shall be located as far away as is practical from properties zoned for residential uses.*
  - (7) *The exterior building facades shall comply with Section 2520. Additionally, the City's Facade Consultant shall review the proposed architectural style of the structure to insure the residential character of the neighborhood is maintained with regard to design and facade elements. The following materials shall be allowed up to a maximum of 25 percent of the building facade, with a finding that these materials will be compatible with the adjacent residential areas: wood siding, painted siding, tongue and groove siding, batten siding, vinyl siding and aluminum siding. These materials are subject to footnote 11 of the Schedule Regulating Facade Materials, in Section 2520.*

Additionally, Community Development Department staff contacted West Bloomfield Township where an ENA facility has been established. The West Bloomfield Planning Department indicated that, because of the care of the small children at the facility in West Bloomfield, it is considered a daycare under West Bloomfield's ordinances, requiring special land use approval. West Bloomfield has similar outdoor play area standards as provided in Novi's ordinances. A call to the Bloomfield Hills field office of the State of Michigan revealed that the State would also consider this type of facility a daycare under the state's guidelines (small children being dropped off for care by adults other than the parents).

On September 21, the applicant submitted a letter indicated that the proposed use of the facility will be amended to provide tutorial and counseling services to school aged children (1<sup>st</sup> grade through 18 years of age). The letter further indicates:

*"Unless and until we have obtained approval from the City of Novi for a separate special use permit as a day care facility, we should not undertake the instruction of children of an age on in a manner which would characterize any portion of our operations as a 'day care center' or as providing for 'day care' under the city of Novi's Ordinance."*

It is expected that the applicant will continue to seek permits to modify the tenant space to allow the instructional center at this time, and proceed in the near future with Special Land Use consideration through the Planning Commission to allow the care of the younger children.

The Building Division will proceed with the review of the facility including the amendments to the use as indicated in the letter from ENA. The Building Division will need to issue permits for tenant space modification. The Planning Division will forward a Special Land Use application to the company representatives, along with this memo, and continue to offer guidance through the process.

We look forward to welcoming ENA to the City of Novi and appreciate their willingness to work within the ordinances of the City. Please contact the Community Development Department if there are any questions.

- C Pam Antil, Assistant City Manager
- Maryanne Cornelius, City Clerk
- Tom Schultz, City Attorney
- Steve Rumpel, Community Development Director
- John Hines, Building Official
- Ken Elphinstone, Plans Examiner
- Harold B. Woolfark, General Counsel for Applicant
- Jonathan Brateman, Agent for Applicant



GAKKYUSHA U. S. A. CO., LTD.

Headquarters, 280 Railroad Avenue, #209 Greenwich CT 06830  
Phone: 203-869-0662 Fax: 203-869-3712 Email: ena-hq@msn.com

AMENDED APPLICATION

September 21, 2007

Ladies and Gentlemen:

Unless and until we have obtained approval from the City of Novi for a separate special use permit as a day care facility, we shall not undertake the instruction of children of an age or in a manner which would characterize any portion of our operations as a "day care center" or as providing for "day care" under the City of Novi's Ordinance.

Accordingly, kindly permit the continued construction of our leasehold improvement at SUITE 400, 39885 Grand River Avenue, Novi, MI 48375 with the contemplated use as follows:

Office use for tutorial & counseling services to children; School aged (1<sup>st</sup> Grade) through 18 years old. Approximately 15 students at a single moment (expecting 70 registered students)  
5 Teachers need parking spaces.  
Parents usually do not park their cars; but they drop or pick up their children and go.

Regular Office Hours: 9:00 am to 10:00pm Monday through Friday  
9:00 am to 9:00pm Saturday & Sunday

Regular Class Hours:

1-12 graders' Classes: 4:00pm to 9:00pm 1.5 hours classes  
Weekdays  
9:00am to 9:00pm 1.5 hours class  
Saturdays & Sundays

History of Gakkyusha U. S. A. Co., Ltd. d/b/a ena

Gakkyusha Co., Ltd., which was incorporated in Tokyo, Japan in 1976, operates a major preparatory school system named ena employing 800 persons (including 600 part-time employees) with 84 locations in Japan, 11 locations in the United States, two locations in United Kingdom, two locations in Germany, one location in Brussels, one location in Jakarta, one location in Bangkok. (ena homepage: [www.ena-net.co.jp](http://www.ena-net.co.jp))

In the State of New York, Gakkyusha U.S.A. Co., Ltd. was established in January 1987 as a wholly owned subsidiary of Gakkyusha Co., Ltd. Gakkyusha U.S.A. opened its first school in the United States, ena New York, in April 1987. In 2007, we operate 11 schools in seven different states in the United States: New York, New Jersey, Connecticut, Illinois, California, Michigan and Maryland. We have approximately 1000 students and presently employ 49 full-time instructors and 20 part-time instructors in the United States. We provide after school and preparatory school education for Japanese children at the grade school level and Japanese infants.

ena New York 747 White Plains Road, Scarsdale, NY (Since 1987)  
ena New Jersey 110 Charlotte Place, Englewood Cliffs, NJ (Since 1989)  
ena Chicago-Arlington Hts. 1931 Rohlwing Rd. #D, Rolling Meadows, IL (Since 1990)

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COMMUNITY DEVELOPMENT

# ena GAKKYUSHA U. S. A. CO., LTD.

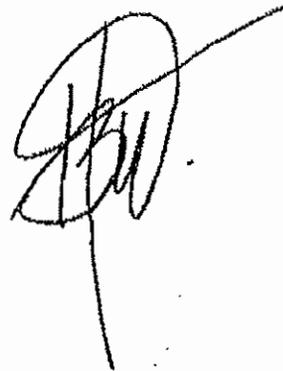
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ena Greenwich	280 Railroad Avenue, Greenwich, CT (Since 1990)
ena Los Angeles	3633 Pacific Coast Highway, Torrance, CA (Since 1992)
ena Washington D.C.	5161 River Road, Bethesda MD (Since 1995)
ena San Jose	1072 S. De Anza Blvd. #A202, San Jose, CA (Since 1998)
ena San Francisco	1710 S. Amphlett Blvd. #120, San Mateo, CA (Since 1999)
ena Harrison	349 Halstead Avenue, Harrison, NY (Since 2000)
ena Irvine	18011 SkyPark Circle #B&C, Irvine, CA (Since 2001)
ena Detroit	6016 W. Maple Road, #710 West Bloomfield MI (Since 2004)

In fiscal year 2006, Gakkyusha U.S.A. Co., Ltd. had over \$4 million in gross revenues. Our parent company, which takes a full financial responsibility for our U.S. operation had gross revenues of \$40 million in fiscal year 2005).

There are tens of thousands of Japanese families living in any major cities in the United States. Due to major differences in the teaching methodology and standards between Japanese and American education systems, the children of these families who have been temporarily removed from the mainstream of Japanese education are confronted with difficulty upon both their adaptation to the American system and their return to the Japanese system. To address these needs, we have established a preparatory school system, which provides educational programs for Japanese pupils temporarily living in the United States: the supplemental programs that they need to keep up with their American daytime school curriculums and the paralleled programs that they would have received if they remained in Japan.



Harold B. Woolfalk  
General Counsel



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Received at Council  
meeting 9/10/07

### Use of premises:

Office use of tutorial & counseling services to children: 2 and half years old to 18 years old. \*  
Approximately 15 students at a single moment (expecting 70 registered students)  
5 Teachers need parking spaces.  
Parents usually do not park their cars; but they drop or pick up their children and go. \*

Regular Office Hours: 9:00 am to 10:00pm Monday through Friday  
9:00 am to 9:00pm Saturday & Sunday

### Regular Class Hours:

Morning	<u>Preschool Classes:</u>	10:00am to 2:00pm	4 hour-long classes Mon. thru Sat.
Afternoon	<u>Preschool Classes:</u>	2:30 pm to 5:30pm	1 hour-long classes Mon. thru Sat.
	1-12 graders' Classes:	4:00pm to 9:00pm	1.5 hours classes Weekdays
		9:00am to 9:00pm	1.5 hours classes Saturdays & Sundays

Use of premises: Office use of tutorial and counseling services to children  
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