

and things like that.

Member Avdoulos continued and said so I think depending on what the particular business is, it will work. Those particular areas highlighted already have plazas, like at Ten and Meadowbrook there's plazas with restaurants there already so it's not like you're introducing anything new. I think it's because of how it was zoned and that allowing them in the B-1 District won't have a wildfire spread across the city with restaurants everywhere because they're only located in certain areas. So they're kind of set in a location where I don't think it's going to be that much of a detriment. But we could see where this goes and take a look at it further in the next public hearing, but at this point in time I don't have that big of a concern.

Chair Pehrson said I also didn't have any issue with introducing this and expanding this district. My only concerns are going to be that when anything comes forward, and also realizing two things – the Beck and Ten Mile I've never been in favor of that particular area, but we don't have to consider that because of the consent judgment and I wouldn't consider knocking down those trees to put up anything else there either. And I think it's a sign of the times that we're adjusting the Ordinance to meet the needs or wants of the public for those kinds of coffee shops.

My only thoughts for the amendment itself is that I think we need to look at it from the standpoint of traffic concerns and hours of operations so that there are limitations being addressed so that we don't create bothersome corners. Right now, you'd have to show me something for the Peachtree Plaza with a pretty good layout that would allow traffic to flow in and out of that area because you've basically got the one entrance off of Meadowbrook and then the cut-through that goes by Sovel's and I can see that being problematic from a traffic standpoint. So those would be my only concerns going forward with any of these sites adopting this Ordinance amendment.

Motion made by Member Lynch and seconded by Member Avdoulos.

ROLL CALL VOTE TO POSTPONE CONSIDERATION MADE BY MEMBER LYNCH AND SECONDED BY MEMBER AVDOULOS.

Motion to postpone making a recommendation for Zoning Ordinance Text Amendment. Motion passed 4-0.

3. NOVI SENIOR COMMUNITY PROJECT JSP17-66

Public hearing at the request of CA Senior Living Holdings, LLC for Preliminary Site Plan, Wetland Permit, Woodland Permit, and Stormwater Management Plan approval. The subject property is currently zoned OS-1 (Office Service) and RA (Residential Acreage) and is governed by the William R. Eldridge v. City of Novi Consent Judgment. The subject property is approximately 9.72 acres and is located on the north side of Twelve Mile Road, between Novi Road and Meadowbrook Road (Section 11). The applicant is proposing to build a senior living care facility that houses about 78 assisted living units and 105 beds for congregate care all under one roof with associated site improvements such as parking, loading and landscaping. The site plan also includes an exclusive access drive to the adjacent cemetery.

Planner Komaragiri said that the subject property is approximately 9.72 acres located north of Twelve Mile Road and east of Novi Road in Section 11. The proposed development is located north of Twelve Mile Road between Novi Road and Meadowbrook Road in Section 11. The site is bounded by the Oakland Hills Memorial

MEMORANDUM



TO: MEMBERS OF THE PLANNING COMMISSION
FROM: BARBARA MCBETH, COMMUNITY DEVELOPMENT
SUBJECT: TEXT AMENDMENT 18.286 RESTAURANTS IN B-1
DATE: JANUARY 25, 2018

Attached is a proposed ordinance amendment that the Community Development Department received for the purpose of allowing restaurants in the B-1, Local Business Districts throughout the City of Novi. The applicant, Jonathan Brateman, is primarily interested in allowing sit-down restaurants in the Peachtree Plaza, which is located near the southwest corner of Ten Mile Road and Meadowbrook Road. Additional information has been provided by the applicant by email, which is attached. Please refer to the November 1, 2017 memo for additional information.

Planning Commission Questions for Follow-up

The Planning Commission discussed the proposed amendment at the meeting of November 8, 2017, and provided some guidance for staff to research prior to the public hearing. The minutes from that meeting are attached. Some additional research is as follows.

1. **Similar requests were presented in the past and reviewed by the Planning Commission and Council at that time. What were the reasons for denial?**

For the rezoning request, presented to the Planning Commission on October 7, 1998, to rezone from B-1, Local Business to B-3, General Business, the Planning Consultant noted that the intensity of the uses allowed in B-3 sharply contrast with those permitted in B-1. Resident concerns were expressed about the garbage, odors and traffic. Planning Commission members were not in support of the rezoning, instead suggesting the applicant seek to modify the ordinance to consider certain land uses a special land uses as a part of the B-1 district. The rezoning request received a negative recommendation from the Planning Commission, and was referred to the Implementation Committee to consider additional uses in the B-1 district. Relevant minutes are attached.

For the text amendment brought forward in 1999 to allow Restaurants as a Special Land Use in the B-1, Local Business Districts, the text included limitation on seating capacity of 50 persons per restaurant and carry out restaurants, subject to the following:

- a. Dumpsters shall be located as far away as possible from adjacent residential uses and districts.
- b. Service/loading doors facing residential uses and districts shall remain closed except during active loading/unloading and service activities.
- c. All restaurants shall be located within a planned commercial center, and the gross floor area for all restaurants shall not exceed 50% of the gross floor area of the planned commercial center.

Family Residential. As such, the Plan Review Center would be unlikely to recommend a rezoning to B-2 (or another district that allows restaurants) since it would not be in compliance with the Master Plan for Land Use.

History of uses at Peachtree Plaza

Some highlights of the history of the Peachtree Plaza are as follows:

- The site plan for Peachtree Plaza site plan was approved in the mid-1980s, with concerns expressed at that time regarding the potential difficulty in visibility of the plaza, traffic generated, and proximity to nearby residential uses.
- The Cottage Inn Pizza restaurant had been located in the Peachtree Plaza as a result of the Zoning Board of Appeals granting a use variance on April 28, 1992 for the owners of the plaza at that time. The ZBA Action was for that restaurant only, and in the last couple of years that tenant has found a new location in the shopping center on the north side of Ten Mile Road.
- In 1998, there was a request to rezone the Peachtree Plaza from B-1 to B-3, which was unsuccessful.
- In 1999, City Council considered a request for approval of Zoning Ordinance Text Amendment 18.148 for the B-1 zoning district to include as a principal use permitted subject to special conditions sit-down restaurants with a maximum seating capacity of 50 persons and carry out restaurants that do not vent odors to the outside. This text amendment request was unsuccessful.
- In 2010, the owner's representatives had considered requesting a rezoning of the Peachtree Plaza to B-2, Community Business to allow day care centers which was a possible expansion to the Koby International Academy that was located in the center at that time. The request was not pursued.
- In 2012, Plan Review Center staff prepared a report for the objective of identifying the Ten Mile and Meadowbrook Road Commercial Rehabilitation Plan pursuant to the City's Tax Abatement Policy. This Plan was intended to assist with redevelopment of certain properties in this area, including the Peachtree Plaza. A copy of that plan is found here:
<http://cityofnovi.org/Government/City-Services/Community-Development/What-s-New/Documents/TenMileAndMeadowbrookRehabComplete.aspx>

Further discussion with the applicant

Peachtree Plaza has had the following tenants in recent years that have left the center: chiropractor, salon, and Cottage Inn Pizza. Still present are: Koby Academy (after-school program), and a dentist's office (previous practice moved out, new practice moved in). A new salon with facial and massage services is a potential new tenant.

Of the 20 units, 9 are occupied at this time, amounting to a 55 percent vacancy rate in this center. The applicant has explained that the Koby Academy draws many parents to the

center in the morning and afternoon, and these people may benefit from having a restaurant in the center while waiting for children to finish training at the Koby Academy. The applicant indicates that several Japanese restaurants have shown an interest in locating at Peachtree Plaza, because they see an opportunity to capture the business of those people dropping off students at the afterschool academy.

The applicant has further explained that allowing up to 4800 square feet of the 25,000 square foot shopping center with restaurant uses would make the shopping center more viable. Alternatively that applicant has indicated that no more than 20 percent of the shopping center would be occupied by restaurants, or a maximum of 4800 square feet, whichever is less. The applicant has reiterated that, although residential homes are located directly behind (south) of the Peachtree Plaza, the dumpster is located in the front (northwest corner) of the center, so any smells or additional trash pickup would not adversely affect the neighbors.

Suggested Ordinance Amendment

The applicant's suggested Language for Text Amendment Change for B-1 Zoning is as follows:

- Restaurant businesses with sit down and carry out service shall be allowed in B-1 shopping center provided that the restaurants do not exceed 4800 sf.
- Restaurant trash removal to be no closer than 100 feet from a residential area and is not open longer than 12 am in the evening.
- The customer assembly area shall be sprinklered ."

Staff Review

Staff notes that if changes are made to the B-1 District for the Peachtree Plaza, those standards would apply across all of the B-1, Local Business zoned properties in the City:

- The southwest corner of Ten Mile and Meadowbrook Road (including Peachtree Plaza and Novi Plaza)
- The southeast corner of Ten Mile and Meadowbrook Road (Tobin Office Center and a bank)
- The northeast corner of Ten Mile and Meadowbrook Road (Stewart's Ice Cream and office/retail uses)
- The southeast corner of Ten Mile and Novi Road (Walgreens)
- The southwest corner of Ten Mile and Haggerty Road (Dunkin Donuts, and retail uses, Moe's On Ten Restaurant)
- The northeast corner of Ten Mile and Beck Road (governed by the Briarwood Consent Judgment)
- The west side of Wixom Road, south of Grand River (Single family homes and vacant land across from the Target Store).

Staff notes that there are currently several long-standing restaurants in the B-1 Districts noted above, and would be considered non-conforming uses (Stewarts Ice Cream, Dunkin Donuts, Sushi Restaurant, and Moe's on Ten).

All of the locations noted above are immediately adjacent to single family residential uses, with the exception of Walgreens located at the southeast corner of Ten Mile and Novi Roads. Most of the developments shown do not meet today's ordinance standards, and may have been developed prior to these standards being in place:

- Where B-1 districts abut a residential district the parking lot setback must be increased from a minimum of 10 feet to 20 feet. As visible in the attached aerial location maps, most of the developments in the B-1 District do not have the required 20 foot parking lot setback standard, but some have a screen wall between the properties.
- Typically, a 6- 8 foot high landscape berm is required between B-1 Districts and residential uses. As seen on the attached aerial photos, berms do not appear to exist in most of the locations identified.
- Rear yard building setbacks in the B-1 District are also set at a minimum of 20 feet.

Intent of the Business Zoning Districts

The Zoning Ordinance lists the intent of the various Business districts and the increasing intensity as the Business Districts increase the allowable uses, market area, and layout of the business uses:

The intent of the **B-1 District** is as follows:

The B-1, Local Business district, as herein established, is designated to meet the day-to-day convenience shopping and service needs of persons residing in nearby residential areas.

The intent of the **B-2 District** is as follows:

The B-2, Community Business district is designed to cater to the needs of a larger consumer population than is served by the Local Business district, and is generally characterized by an integrated or planned cluster of establishments served by a common parking area, and generating greater volumes of vehicular and pedestrian traffic than generated by Local Business district uses, and located at the intersection of two major thoroughfares (major arterial, arterial or minor arterial). Although the B-2 districts permit certain more intensive commercial uses than B-1 districts, it is intended that automotive sales and service establishments, drive-through fast-food restaurants, open air retail uses, and similar uses not be established in the B-2 districts. This goal is established to maintain a more pedestrian-friendly environment and to foster a physical development pattern that is well-planned, supportive of moderately intense commercial uses, and aesthetically appealing from both abutting thoroughfares and from within the district.

The intent of the **B-3 District** is as follows:

The B-3, General Business district is designed to provide sites for more diversified business types which would often be incompatible with the pedestrian movement in the Local Business district or the Community Business district.

Attached is a chart indicating the five types of restaurants defined in the Zoning Ordinance and the districts where each type of restaurant is currently considered a principal permitted

use or a special land use. This chart has been updated since the last time it was used for consideration of limited Fast Food Drive-Through Restaurants in the TC and TC-1 Districts. Restaurants of some type are permitted in 16 zoning districts throughout the City.

Staff Recommendation

In Novi, restaurants have not been permitted in the B-1 District since prior to 1990. Typical concerns that have been raised regarding restaurant uses adjacent to residential districts are:

- Increased traffic to the center,
- Odors from the foods cooking and from the waste in the dumpsters, and
- Noise, especially if there is outside dining or extended hours.

If the Planning Commission is inclined to support the text amendment as a means to accommodate restaurant uses in the Peachtree Plaza and other B-1 zoned properties throughout the City, staff and the City Attorney’s Office will put together a text amendment that will address this change prior to the public hearing. If this is the Commission’s preference, staff would recommend the following:

- The use be considered a Special Land Use in the B-1 District, since most properties are immediately adjacent to residential districts and the required public hearing could inform the Planning Commission of nearby residents’ concerns.
- Limitation on the square footage allowed, and/or percentage of tenant space, and
- Limitation on hours of operation.

On November 8, the Planning Commission is asked to provide direction to staff on this request and to consider setting a Public Hearing for an upcoming Planning Commission meeting. At that time the Commission will hold the public hearing and forward a recommendation to the City Council, for reading and adoption.

Below please find the definitions of the various restaurant uses as identified in Section 201 of the Zoning Ordinance and a chart illustrating the various districts within the Zoning Ordinance that permit restaurant uses. Please note that there are conditions attached to many of the restaurant uses depending on the district and these are not demonstrated below.

Restaurant (Sit-Down): A business establishment in which a patron purchases food or beverages, which is then prepared after the patrons order, on the premises and which is thereafter served to the patron and is consumed by the patron while seated in the restaurant.

Restaurant (Fast Food Sit-Down): A business establishment in which a patron purchases food or beverages, which may have been previously prepared, and which is served in disposable containers or wrappers and which the patron consumes while seated in the restaurant.

Restaurant (Fast Food Carryout): A business establishment wherein food is prepared or cooked on the premises to be sold in disposable containers or wrappers to patrons and which is not intended to be consumed on the premises or within a motor vehicle parked or standing on the premises.

Restaurant (Fast Food Drive-through): A business establishment in which a patron purchases food or beverages, that (1) are served in disposable containers or wrappers, (2) may have been previously prepared, and (3) are principally ordered and received from a motor vehicle and consumed off premises.

Restaurant (Drive-in): A business establishment designed to provide a motor vehicle driveway approach, standing space, or parking space where patrons receive food and beverages while in motor vehicles for consumption in motor vehicles while on the premises.

	NCC	GE	EXPO	EXO	Retail Service Overlay	C	OSC	OST	I-1	I-2	FS	B-2	B-3	TC/TC-1	RC	RC w/ PD-2
Sit-Down Restaurant	PPU*	PPU*	PPU*	PPU*	PPU*	SLU*	SLU*	SLU*	SLU	SLU	PPU	PPU	PPU	PPU	PPU (in shopping center) SLU (free standing)	SLU
Fast Food Sit Down Restaurant		PPU*			PPU*				SLU	SLU	PPU	PPU	PPU	PPU	PPU (in shopping center) SLU (free standing)	SLU
Fast Food Carryout Restaurant		PPU*			PPU*				SLU	SLU	PPU	PPU	PPU	PPU	PPU (in shopping center) SLU (free standing)	SLU
Fast Food Drive-Through Restaurant					PPU*						PPU		PPU	SLU*		SLU
Drive-in Restaurant																

PPU = Principal Permitted Use
 SLU = Special Land Use
 * Subject to conditions as listed in the ordinance.



APPLICATION FOR TEXT AMENDMENT

Community Development Department

45175 W. Ten Mile, Novi, MI 48375

248-347-0475; 248-735-5633 fax

RESTAURANTS IN B-1

Topic for Consideration

Use Tab function to navigate form. Point and click cursor to check boxes.

APPLICANT

JONATHAN BRATEMAN PROPERTIES INC		JONATHAN BRATEMAN		Professional License Number, if applicable	
Company		Primary Contact			
40015 GRAND RIVER AVE		105	NOVI	MI	48375
Street Address		Suite	City	State	Zip
248 477-5000		(248) 474-4208		JBrateman@AOL.COM	
Phone Number		Fax Number		E-mail address	

SUBMITTAL REQUIREMENTS

Submittal Requirements:

- Document describing the change the Applicant is proposing. Information should include the section of the Ordinance requiring the change, suggested new language, and any samples of this language from other municipalities where its use has already been adopted.
- Original signed copy of this application.
- Check made payable to the City of Novi in the amount of \$690.00, which is used to cover the cost of the Public Hearing process.

\$500.00 given all if need more

I do hereby attest that all statements, signatures, descriptions, and exhibits submitted with this application are true and accurate to the best of my knowledge.

Jonathan Brateman *9/7/17*

Signature of Applicant Date

JONATHAN BRATEMAN

Printed Name of Applicant

Suggested Language for Text Amendment Change for B-1 Zoning

“ Restaurant businesses with sitdown and carry out service shall be allowed in B-1 shopping center provided that the restaurants do not exceed 4800 sf.

Restaurant trash removal to be no closer than 100 feet from a residential area and is not open longer than 12 am in the evening.

The customer assembly area shall be sprinklered.”

**PLANNING COMMISSION REVIEW
PROPOSED ZONING MAP AMENDMENT
OCTOBER 7, 1998**

EXCERPT

REGULAR MEETING OF THE NOVI PLANNING COMMISSION

WEDNESDAY, OCTOBER 07, 1998 AT 7:30 P.M.

COUNCIL CHAMBERS - NOVI CIVIC CENTER - 45175 WEST TEN MILE ROAD

(248) 347-0475

Meeting called to order at 7:36 p.m. by Chairperson Weddington.

PRESENT: Members, Canup, Capello, Churella, Csordas, Koneda, Mutch, Piccinini, Chairperson Weddington

ABSENT: Member Watza

ALSO PRESENT: Planning/Traffic Consultant Rod Arroyo, Engineering Consultant David Bluhm, Assistant City Attorney Paul Weisberger, Landscape Architect Linda Lemke, David Wickens Environmental Specialist, Director of Planning & Community Development Jim Wahl, and Planning Assistant Kelly Schuler

1. ZONING MAP AMENDMENT 18.578

Proposed rezoning of 2.0 acre property located in Section 23, at the southwest corner of Ten Mile Road and Meadowbrook Road from Local Business (B-1) to General Business (B-3) or any other appropriate zoning district.

Terry Jolly represented Kerop and Carmen Arman. He stated the letter from the Homeowners Association surprised him because there was a meeting held in July 1998 where the tenants all attended and pleaded to create an increase of traffic to the stores. He stated there was not one concern from the Orchard Hills Subdivision at that time. He stated there were two B-2 uses in that shopping center, Ah Wok Restaurant and Jacks Meat Market.

Mr. Jolly stated he was looking for the ability to allow restaurants to come into the shopping center to draw traffic to benefit the current tenants. He asked that the zoning be changed from B-3 to B-2.

Rod Arroyo, Planning and Traffic Consultant stated the intensity of the uses allowed in a B-3 District sharply contrast with those permitted within a B-1 District. He stated there was concern about large scale restaurant and the potential for the storage of refuse in the alley behind the shopping center which directly abuts residential. Mr. Arroyo provided some alternatives for rezoning; 1) rezone the parcel consistent with the request of the applicant; 2) rezone to B-2; 3) deny the request; 4) deny the request and refer the B-1 District to the Implementation Committee for further study to see if there are additional uses that might be

permitted that would be consistent with the intent of the B-1 District to allow more flexibility. Mr. Arroyo recommended that a negative recommendation be sent to City Council.

Mr. Arroyo stated he would not recommend B-2 District because it includes uses such as a private club, a lodge hall, a fraternal organization hall, as well as restaurants. He explained that these establishments have longer evening hours which could have more of a negative impact on an adjacent residential area. Hotels and Motels are permitted as a principal permitted use.

Chairperson Weddington announced it was a Public Hearing and opened the Matter to the Public.

Jonathan Brateman, 42705 Grand River is the leasing agent for the shopping center. He stated the projects' difficulties deal with visibility and the fact that it is an unanchored strip shopping center. The zoning complicates the project because certain uses create a problem. He stated the rent was about 30% less than any other comparable shopping center in the area, therefore, it is not a question of dollars and cents. Mr. Brateman stated if the Commission votes "no", they are committing the shopping center to what the last 12 years have been. A "yes" vote would allow them to work with the B-3 District to be able to bring uses that will create enough traffic so that the existing stores will survive and the center will reach its economic potential. Mr. Brateman asked the Commission to vote "yes".

John Sherwood, 23980 Meadowbrook lives adjacent to the shopping center. He stated the whole idea behind business is the location. He stated the gentlemen built the shopping center knowing exactly where it was located, therefore it is their investment. He stated with the garbage, odors and traffic, he did not believe the rezoning should be allowed and that it should remain as it is. Mr. Sherwood asked the Commission to vote "no".

Jim Kripchek owns Special Seconds. He stated he has been located there for 11 years and half of the time the mall has been half vacant. He thought the opportunity to bring some more business into the mall would be good for him as well as everyone else. He owns 6 stores and this location is the nicest shopping center, he stated it is well maintained.

Chairperson Weddington asked if anyone else would like to address the Public Hearing? Seeing no one she closed the Public Hearing and turned the Matter over to the Commission for Discussion.

DISCUSSION

Member Churella stated Mr. Arman is a client of the firm of which he is the Chairperson. He stated Mr. Arman is represented by one of the Agent's who work for the company.

Chairperson Weddington asked Member Churella if he has any financial gain from the business?

Member Churella answered, no.

Paul Weisberger, Assistant City Attorney asked if any of Member Churella's immediate family members receive financial gain from the business?

Member Churella answered they receive a fee for representing them as an Insurance Agent.

Mr. Weisberger interpreted that as a financial interest and thought it would be best for him to abstain from voting.

Member Canup stated the project has been in the City for quite a while and has been a problem since the day it was built. Although he sympathized with the problem, he could not see where he would vote for any relief for it because of the fact that when the project was built, the owners were advised of the problems that they were creating for themselves.

Member Capello stated the last time the project was before the Commission, he suggested that maybe more destination businesses were needed. He was not sure that restaurants would solve the problem. Member Capello stated he would support B-2 in the Novi Drug location because being right off of Novi Road might help visibility. He was sympathetic both ways, he thought it was a hardship created by the applicants themselves, however, he did not think it was good for anybody to have the center sit vacant. He was not sure how he would vote at this point.

Member Canup stated the restaurant businesses were exactly what the applicant promised they would not ask for 15 years ago.

Member Konedá added that he was also sympathetic with the applicant, however, he did not think it was appropriate to change the zoning to B-2 or B-3. He thought the Commission needed to consider some special land usages that would permit some additional usages as part of the B-1 District. He thought it appropriate to deny the request and return it to the Implementation Committee to consider special usages for B-1 District that may offer some relief.

PM-98-10-186 TO SEND A NEGATIVE RECOMMENDATION TO CITY COUNCIL ON ZONING MAP AMENDMENT 18.578

Moved by Csordas, seconded by Konedá, CARRIED UNANIMOUSLY: To send a negative recommendation to City Council on Zoning Map Amendment 18.578.

DISCUSSION

Member Capello thought special uses allowed in a B-1 was a good idea. Uses such as a coffee shop, ice cream parlor or other food establishments that do not have the odors or sit down traffic like a restaurant.

Member Canup stated this is the reason for the Zoning Board of Appeals, to deal with these kinds of issues.

Member Konedá stated the burden of going to the ZBA fell upon the potential renter and the potential renter would have difficulty demonstrating a hardship since other properties were available in the City. Therefore, he thought that going to the ZBA was not an option.

VOTE ON PM-98-10-186 CARRIED UNANIMOUSLY

Yes: Canup, Capello, Csordas, Konedá, Mutch, Piccinini, Weddington

No: None

PM-98-10-187 TO REFER THE MATTER TO THE IMPLEMENTATION COMMITTEE TO DETERMINE IF OTHER APPROPRIATE USAGES COULD BE INCLUDED IN THE B-1 DISTRICT

Moved by Konedá, seconded by Capello, CARRIED (6-1): To send the issue of Special Land Uses for some limited restaurant or food carry-out matters in B-1 to the Implementation Committee.

