



**CITY OF NOVI CITY COUNCIL  
DECEMBER 18, 2023**

**SUBJECT:** Consideration of Text Amendment 18.303 to amend Section 7.1, Nonconformities, of the Zoning Ordinance to provide the option for expanding a nonconforming use through a Special Land Use to be considered and potentially approved by Planning Commission after a public hearing. **FIRST READING**

**SUBMITTING DEPARTMENT:** Community Development – Planning Division

**BACKGROUND INFORMATION:**

The attached draft Zoning Ordinance amendment is being proposed by staff in order to provide opportunities to allow for the expansion of nonconforming uses and nonconforming buildings, subject to a number of conditions, and with Planning Commission's consideration and approval of the request following a public hearing.

The Zoning Ordinance defines nonconforming uses and nonconforming buildings as follows:

*Nonconforming Use: A use which lawfully occupied a building or land at the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.*

*Nonconforming Building: A building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, and that does not conform to the provisions of the Ordinance in the district in which it is located.*

Nonconforming uses and buildings may come about for developed properties where the property is rezoned to a zoning district that would no longer permit the existing use, or when a section of the zoning ordinance is modified following the construction of the existing use. An example of this situation may be a single-family home that was built as a permitted use within a single-family residential zoning district, but later became a legal nonconforming use when the property was rezoned to an office or industrial zoning district. In this instance, the ordinance allows the single-family home to remain and be occupied on the property that was rezoned to a non-residential district, but the home may not be expanded or extended beyond its original approval. While the home may not be enlarged, the

ordinance allows for necessary repairs to the structure, and modifications to the façade, landscaping, driveway, and parking lot.

The Zoning Ordinance currently does not allow for the expansion of nonconforming uses, with the goal of such uses eventually being replaced by uses that are permitted. Following discussions with two property owners wishing to expand properties that are considered nonconforming uses, staff worked with the City Attorney's office to draft language that amends Section 7.1 Nonconformities to allow for the expansion of nonconforming uses in some circumstances. The ordinance amendment provides the option through a Special Land Use to be considered and potentially approved by the Planning Commission. In addition to the conditions that must be met for Special Land Use Approval, several other criteria must be met.

### **Section 7.1 Nonconformities**

- Section 7.1.1 Intent (changed to allow for the expansion of nonconforming uses in some circumstances)
- Section 7.1.3 Nonconforming Uses of Land
- Section 7.1.5 Nonconforming Uses of Structures and Land
- Section 7.1.7 Repairs and Maintenance
- Section 7.1.11 (new) Special Land Use Approval for Nonconformities

Additional factors the Planning Commission must consider when determining Special Land Use approval for an expansion of an existing nonconforming use:

- i. Expansion must meet the height, setback, parking, and other requirements for the zoning district where the property is located
- ii. Additional traffic shall not pose an undue burden on the surrounding neighborhood and uses
- iii. Expansion shall not go beyond the limits of the parcel
- iv. Lighting, noise, vibration, odor, and other possible impacts that may be generated shall not be increased beyond the levels that existed prior to the expansion
- v. Total added floor space shall not exceed 50% of the existing total floor area

Expansion shall not hinder the future development of surrounding properties in accordance with the Master Plan

The Planning Commission held a public hearing on November 15<sup>th</sup> and forwarded a favorable recommendation to the City Council.

**RECOMMENDED ACTION:** Approval of Text Amendment 18.303 to amend Section 7.1, Nonconformities, of the Zoning Ordinance to provide the option for expanding a nonconforming use through a Special Land Use to be considered and potentially approved by Planning Commission after a public hearing, subject to further modifications as determined necessary by the City Manager's Office or City Attorney's Office. This motion is made because the ordinance amendment helps existing homeowners and business owners wishing to make renovations or limited expansions without having to seek a rezoning. **FIRST READING**