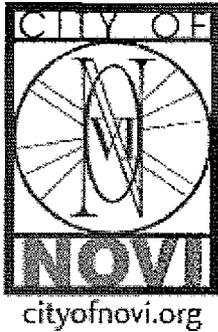


MEMORANDUM



TO: MEMBERS OF THE PLANNING COMMISSION
FROM: KRISTEN KAPELANSKI, AICP, PLANNER *Kristen*
THRU: BARBARA MCBETH, AICP, DEPUTY DIRECTOR
SUBJECT: TEXT AMENDMENT 18.239 - GAS STATION LIQUOR SALES
DATE: DECEMBER 4, 2009

The Planning Commission has discussed a possible text amendment to regulate liquor, beer and wine sales at gas stations at two previous meetings. The Commission asked staff to provide additional information before "setting" a public hearing date. Among the additional information requested by the Commission were the location of existing and potential gas stations in the City of Novi, an understanding of what the State Law allows, information regarding surrounding community's regulations on this matter, and recommendations from Planning staff and the Novi Police Department. This information was provided for the discussion at the November 18th Planning Commission meeting.

At the November 18th meeting, the Planning Commission discussed the matter at some length and questioned the timing and purpose of a possible ordinance amendment. Staff notes that there is one gas station in Novi that currently has a liquor license from the State of Michigan: the Sunshine Market at 13 Mile and Novi Roads. This matter was not discussed by the Planning Commission or the City Council as the Zoning Ordinance does not currently regulate such sales at gas stations. The Sunshine Market would be "grandfathered in" if new regulations are put in place, and is also subject to a Consent Judgment regulating the uses and site plan for that property.

Additionally, staff attended a recent Pre-Application meeting and provided comments on a proposed site plan for a new gas station where the intended sale of beer, wine and liquor was indicated on the submitted floor plan. The timing of the ordinance discussion seems appropriate to determine whether the City of Novi would want to consider any further zoning ordinance regulation of this land use before the issue is presented to the Planning Commission on a site plan submittal. As stated previously, gas stations in the B-2, Community Business and B-3, General Business districts require Special Land Use approval by the Planning Commission, but are a Principle Permitted Uses in the FS, Freeway Service District.

Staff has also learned that other communities are considering, or already have, regulations for this land use: West Bloomfield recently banned alcohol sales at gas stations, Southfield has prohibited alcohol sales at gas stations for a number of years, and Wayne County does not allow alcohol sales at gas stations throughout Wayne County. It has not yet been determined whether Novi would want to follow this same course (prohibit this combination of land uses) or would choose a different course (allow this combination of land uses by providing no zoning ordinance regulations, or allow the combination of land uses subject to certain standards).

To Planning staff, the Planning Commission's opinion on the question of the regulation of alcohol sales at gas stations seems appropriate, as the City Council relies on the Commission for recommendations on various land use issues. Following the Planning Commission's public hearing and recommendation on this matter, the matter will need to be forwarded to the City Council for a final determination.

At the November 18th meeting, the Commission members asked for further information from the Novi Police Department to answer some questions raised in the Police Department memo presented on November 18th. Deputy Chief Lindberg will be present at the meeting on December 9th to discuss the memo prepared for the last meeting

Additional research was found on the internet, including the attached article on the relationships between the regulatory practices of alcohol-control agencies and alcohol-related traffic deaths in 107 cities, and the effects of alcohol advertising on youth.

The Planning Commission is asked to set a public hearing for this matter for January 13, 2010 for recommendation to the City Council on this matter. We would appreciate hearing the Planning Commission's discussion on this matter to assist in determining how to frame the draft ordinance language that will be presented at the public hearing.

Please see the attached information provided previously for additional information on the options that are available for the Commission's consideration. .

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SUMMARY

Investigators at Louisiana State University Health Sciences Center examined the relationship between regulatory practices of alcohol-control agencies and alcohol-related traffic deaths in 107 cities that participate in the National Highway and Traffic Safety Administration's Fatality Analysis Reporting System (FARS).

Investigators surveyed state Alcohol Beverage Control agencies and local city police departments in the 107 cities and interviewed staff from alcohol-enforcement agencies in 20 cities.

The goal was to determine whether local policies and practices reduce alcohol-related automobile fatalities.

The project was part of the Robert Wood Johnson Foundation's (RWJF) national Substance Abuse Policy Research Program (SAPRP).

Key Findings

The investigators reported their findings in an article in the February 2002 issue of *Preventive Medicine*:

Lower rates of alcohol-related traffic fatalities, were found in states and communities that:

- Limit alcohol accessibility.
- Require licensure of outlets selling alcohol.
- Provide for disciplinary actions against outlets that violate laws.
- Enforce blood alcohol concentration laws.

Alcohol-related fatalities were most effectively reduced with regulations that:

- Restrict access to alcohol by prohibiting drive-through liquor stores.
- Require kegs to be registered.
- Prohibit drinking in public and in cars.
- Prohibit people under age 21 from entering bars.

Require outlets that serve alcohol to serve food as well.

Restrict alcohol at sports events.

Reduce the number of outlets per 100,000 people.

Funding

RWJF provided a \$263,711 grant from 1997 to 2000 to fund the study.

The principal investigator received a subsequent SAPRP grant (ID# 042190) to determine whether alcohol-control policies are associated with alcohol-related deaths in areas other than traffic fatalities.

[See Grant Detail & Contact Information](#)

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THE PROBLEM

Alcohol was estimated to cost the United States \$184.6 billion in direct and indirect costs of illness, death, and lost wages and productivity in 1998, according to a 2000 report by the U.S. Department of Health and Human Services.

This figure is second only to the impact of tobacco and is one and a half times greater than costs attributable to illegal drugs. Alcohol-related traffic fatalities accounted for 50,562 deaths nationally during the three years from 1995 through 1997, according to the National Highway Traffic Safety Administration's fatality analysis reporting system.

These variations might be explained by differences in local alcohol-control policies and practices. Community interventions to control alcohol problems have not advanced in the same way as interventions that focus on tobacco control.

There is great variation in the existence and enforcement of laws, licensing requirements and fees, and disciplinary practices used to monitor and enforce compliance with the laws. Enforcement of some policies — such as the National Minimum Drinking Age Act requiring states to outlaw drinking among people under age 21 (which contributed to a significant reduction in traffic fatalities) — has been low, and it has been suggested that better enforcement of this and other laws would further reduce mortality rates.

Similarly, cities have been slow to enact policies that could reduce fatalities. While price controls in the form of taxes are likely to control alcohol consumption, taxes on alcohol are less than 1 percent of all taxes, significantly lower than at the turn of the century, when alcohol taxes comprised 40 percent of all taxes; alcoholic beverages sometimes cost less per ounce than bottled water, orange juice or milk.

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THE PROJECT

This study is based on and reinforces the "population consumption model," which holds that individual alcohol consumption is, in part, a function of the overall consumption in the community, and suggests that controlling access to alcohol at the community level may reduce alcohol consumption and alcohol-related problems.

Investigators sought to identify which alcohol-control laws and enforcement practices are associated with the best outcomes for communities as a whole. They surveyed state Alcohol Beverage Control (ABC) agencies and local city police departments in the 107 cities with population over 150,000 that participate in the National Highway and Traffic Safety Administration's Fatality Analysis Reporting System (FARS).

The survey asked about 1997 alcohol-control practices in seven categories:

1. Laws governing accessibility of alcohol.
2. Licensure requirements for alcohol outlets.
3. Disciplinary procedures for outlets that violate existing laws.
4. The type, frequency and quality of the enforcement of existing laws and whether these practices had changed since the previous year.
5. Policies related to driving under the influence (DUI).

6. Resources available to enforcement officers.
7. Public relations and education undertaken by the agencies targeted toward the public or the alcohol outlets.

The survey results were analyzed in conjunction with data for alcohol-related traffic fatalities during 1995–1997 as documented in the FARS database. Out of 107 cities surveyed, 97 responded: 61 in which both the state ABC agency and the local police department responded; 25 in which only the ABC agency responded; and 11 in which only the police responded. Investigators interviewed staff from enforcement agencies in 20 cities, several with low alcohol-related traffic mortality, several with high traffic mortality and a few that had a mid-range rate of traffic fatalities.

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FINDINGS

The number of alcohol-related traffic fatalities per 100,000 people varied between 0.86 and 10.23. The average number of fatalities per 100,000 people was 4.75. Lincoln, Neb. was lowest at 0.86; Kansas City and Dallas were highest at 10.10 and 10.23, respectively.

* Community-level alcohol regulatory policies and practices explain many differences in alcohol-related traffic fatalities across U.S. cities.

Regulations related to alcohol accessibility, licensure and disciplinary procedures taken against alcohol outlets that violated the law, and enforcement of blood alcohol concentration laws were associated with lower rates of alcohol-related traffic fatalities. Cities with 9 or fewer of the 20 alcohol-control regulations surveyed had 1.46-fold greater mortality than cities with 15 or more of these regulations. This difference represents 392 excess deaths annually.

Regulations that most protected against alcohol-related fatalities were those that restricted access to alcohol by prohibiting drive-through liquor stores; requiring kegs to be registered; prohibiting drinking in public and in cars; prohibiting people under age 21 from entering bars; requiring outlets that serve alcohol to serve food as well; restricting alcohol at sports events; and reducing the number of outlets per 100,000 people.

* Cities with stricter licensure and fee requirements for outlets had lower alcohol-related fatalities.

Where outlets were given strict penalties for violations, traffic fatalities were reduced, probably because of higher compliance with laws and thus fewer sales of alcohol to people for whom drinking is illegal. Publishing violations in the local newspaper is also associated with reduced traffic fatalities.

Blood alcohol concentration levels for driving under the influence set at <0.08 reduced the number of alcohol-related fatalities.

Localities with a legal limit for blood alcohol concentration (BAC) <0.08 are more likely to conduct random sobriety checkpoints and to show an overall greater local commitment to using blood alcohol levels to control alcohol use. Among states with a blood alcohol concentration law of <0.08, 68 percent set up random checkpoints and only 3 percent did not use checkpoints. In contrast, 21 percent of cities with BAC at 0.10 set up random checkpoints and 49 percent did not set up checkpoints at all.

Beer consumption, in comparison to wine and spirits, was disproportionately responsible for alcohol-related traffic fatalities. This may be because beer is the most common type of alcohol sold, and it is widely available cold, in single servings, at convenience stores and gas stations. It is heavily promoted with advertisements that often show people drinking beer in outdoor settings, such as beaches, parks and fairs — places one would need to drive to in a car.

* Most cities increased enforcement of alcohol-control laws after they experienced an increase in alcohol-related traffic fatalities, suggesting that enforcement often may be reactive rather than routine. This is especially true of operations such as raids, underage compliance checks and disciplinary practices, all of which vary widely from year to year and are usually implemented in response to political concerns or complaints, or when extra funding is available. In contrast, policies regarding access to alcohol and licensure of outlets are more stable over time.

Public relations and education efforts were minimal nationwide, and no agency had a dedicated annual budget for this work.

There is little variation across cities in the resources available to alcohol-enforcement officers and there are few incentives for aggressive job performance. In contrast to illegal drug enforcement, where a proportion of seizures (including cash and vehicles) becomes the property of the police department, most localities send alcohol-related fines to the state's general fund.

* Because traffic fatalities are only one outcome of alcohol use, regulations that reduce alcohol consumption may have positive effects on other consequences as well, such as crime and violence, homicide and suicide, and sexually transmitted diseases.

Communications

Summary reports were distributed to all alcohol beverage-control agencies and local police departments that participated in the study. An article reporting the results of the study appeared in the February 2002 *Preventive Medicine*, and a news release announcing the findings generated widespread coverage in national and regional print and broadcast media, online outlets, and civic and substance abuse publications.

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LESSONS LEARNED

1. **When compiling data on alcohol policies and enforcement, it is important but at times difficult to identify the correct state and local agencies.** Although most states have an Alcohol Beverage Control Board, in some places, a city tax or licensing department handles alcohol issues. In others, the state police enforce the alcohol-related laws, but a different agency handles licensing. (Project Director)
2. **When conducting a community-level analysis, it is important to have units of analysis that are similar and at small levels. To improve the quality of research in the future, work needs to be done to make data available at a smaller common denominator so it can be aggregated to the relevant unit of analysis.** Much data are available only at state, county or health-area levels, all of which are too large to detect differences within cities or communities. Differences may be "washed out," because they have been averaged in the aggregation process. Once data has been aggregated it cannot easily be disaggregated. (Project Director)
3. **Politics plays a significant role in determining which regulations and enforcement practices will be followed.** Many regulations have been issued based on commercial and political interests and have not been evaluated as to their impact on public health. In states with the highest alcohol-related traffic mortality rates, legislators often are more influenced by special interests, and/or the judiciary prevents efforts for strict enforcement by blocking attempts to punish lawbreakers, especially in DWI cases. (Project Director)
4. **Ranking cities by their alcohol-related mortality provided the local angle that media often require in order to report on a scientific study.** Reporters from cities with the lowest mortality rates had an opportunity to write a "good news" story; those with high mortality rates had a "bad news" story; and those in the middle could write about changes that were needed to reduce alcohol-related mortality. Projects such as this, with findings that have broad applicability, can be widely disseminated. (Project Director)
5. **Alcohol consumption data should be viewed with caution because it is taken at the state level rather than the city level.** City level measures of alcohol use might be more precise and indicate a stronger mediating effect on fatalities than state level data indicate. (Project Director)

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AFTER THE GRANT

The principal investigator on the project described here, Deborah A. Cohen, Ph.D., M.P.H., received a subsequent SAPRP grant (ID# 042190) to complete a secondary analysis of the data collected under this grant to determine if alcohol-control policies are associated with alcohol-related mortality in areas other than traffic fatalities. This follow-up study also will collect additional data on city-level alcohol consumption. Bridget N. Brooks at Louisiana State University Medical Center received a supplemental grant (ID# 036016) to conduct a sub-study comparing incentives/constraints in the enforcement of alcohol, tobacco and narcotics laws.

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GRANT DETAILS & CONTACT INFORMATION

Project

Structure, Policies and Practices of Alcohol Beverage Control Agencies and Alcohol-Related Mortality

Grantee

Louisiana State University Health Sciences Center

Amount: \$ 263,711

Dates: April 1997 to March 2000

ID#: 031603

Contact

Deborah A. Cohen, M.D., M.P.H.
(504) 680-9450
dcohen@lsu.mc.edu

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Report prepared by: Beth Brainard
Reviewed by: Mary Nakashian
Reviewed by: Molly McKaughan
Program Officer: Victor Capoccia
Also interviewed: Seth Emont

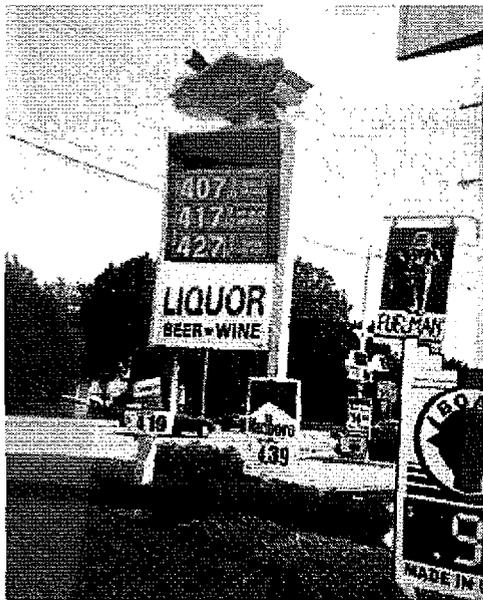
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CONVENIENCE STORES...

admin
07/01/08



Record high oil prices haven't helped the bottom line of local gas stations, so retailers have been moving to a more profitable commodity, alcohol.

In a trend that is likely to be mirrored in other states across the nation, Michigan gas stations are adding beer and wine to the soda pop, milk and juice that have long filled their coolers. According to the Michigan Liquor Control Commission, local gas stations are moving to expand retail sales by adding alcohol to their inventory to remain competitive.

Alcohol abuse prevention experts worry that the additional alcohol outlets will result in more

underage drinking, drunken driving and alcohol poisoning. For some of those same reasons, Michigan has restricted the practice in the past — except for gas stations in rural areas. But lawsuits from station owners and other pressures have forced the state to grant more requests in recent years.

Independent gas station operators in urban and suburban areas say the drinks are needed in their stores to keep them viable against big-box retailers like Costco and Meijer, who sell both gas and alcohol — though you have to go inside the stores to buy alcohol, and the stores tend to be several hundred feet from the gas pumps.

"It's very important," said Najy Jaboro, who started selling beer and wine at his Sterling Heights station about a year ago. "I think it's probably upped my business by 20% or more."

And drinkers seem to like the convenience.

"They've got everything in there: beer, wine and liquor," Tony Williams, 40, of Farmington Hills said after buying a 12-pack of Michelob Ultra at the Northwestern Shell Station this week. "What's the difference if you can go down the road and buy the beer anyway? Up North, you can buy it in the gas stations, too."

The state has issued 1,696 liquor licenses to stores that also sell gasoline, but almost all of those are stores in rural areas or big-box retailers.

"There has always been a certain sentiment against licensing alcohol at gas stations," said Ken Wozniak, a spokesman for the Michigan Liquor Control Commission. "The commission still, philosophically, doesn't like the idea. They think it's not a good public policy."

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People who work in abuse prevention say the more pervasive alcohol sales become, the more young people are encouraged to drink.

"We want to make sure we're not raising up a generation that thinks it has to be a part of everything," said Homer Smith, state executive director of Mothers Against Drunk Driving.

Others acknowledge the competitive pressures facing independent stations, but they argue it's not worth the risk.

"It's a temporary solution for people who have licenses," said Penny Norton, CEO of FACE, a nationwide nonprofit based in Clare that advocates better public policy on alcohol issues. "The incidence of over saturation has a big price tag to it."

Norton said more sellers of alcohol means more work for police agencies to ensure compliance with liquor laws and perform sobriety checks.

"The state should limit licenses," Norton said. "They should use global position system data to mark the geographic location of them and base it on population. How many licenses does a town of 4,000 need?"

Over the years, the Michigan Liquor Control Commission has tried to limit the selling of alcohol near gas stations. And other states have, too. Indiana requires convenience stores to sell beer at room temperature to prevent customers from buying a drink and cracking it open as soon as they reach their vehicles. And Colorado requires them to sell beer with low alcohol content, according to the National Association of Convenience Stores.

But Michigan has always made exceptions, too.

Wozniak said that for decades, the state allowed retailers in rural communities with populations below 3,000 to sell alcohol and gas because they might be the only store in town. Later that population exemption was raised to 4,000, he said.

In the 1980s, when Meijer stores pioneered the one-stop shopping concept in Michigan, company officials sought to add gasoline pumps outside their stores that also sold alcohol, Wozniak said. The state agreed, on the condition that the store stock at least \$250,000 worth of merchandise, a threshold that precluded small stations.

But smaller stations have begun challenging that provision as unfair. They say they can't compete against big-box retailers that sell both gas and alcohol.

"There is no rational basis for how they grant licenses," said Joseph Shallal, a Southfield attorney who specializes in licensing issues. "They discriminate between regular license stores and those that have gas pumps."

Shallal said he has been successful in getting licenses for station operators recently and more are hoping to do the same. "I probably had 15 or 20 calls last month," Shallal said.

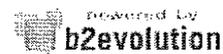
Gas station owners argue that they need alcohol sales inside to make up for weak profits on gas, which average just pennies per gallon, literally. And when motorists pay by credit card, the stations pay a percentage to the bank for handling the transaction. That fee can reduce a slim profit on gasoline to a break-even or even a money losing transaction, owners said.

"The ability to sell beer and wine in a convenience store is very important to attracting convenience customers," said Jeff Lenard, vice president of the National Association of Convenience Stores, an industry trade group.

Source: Detroit Free Press

Tags: [alcohol](#), [alcohol abuse](#), [alcohol poisoning](#), [alcohol sales](#), [drunken driving](#), [gas](#), [gas prices](#), [gasoline](#), [joseph shallal](#), [ken wozniak](#), [liquor licenses](#), [michigan liquor](#)

What is RSS?



Source: Spinal Column Newsweekly

Township bans alcohol at gas stations

by Michael Shelton

July 08, 2009

The West Bloomfield Township Board of Trustees has unanimously approved a zoning ordinance amendment that bans the sale of alcohol at township gas stations.

The amendment was approved at a Thursday, July 2 special meeting. It will take effect on Friday, July 10 at the beginning of the business day, according to township Trustee Steve Kaplan.

"This will reduce the amount of drinking and driving in West Bloomfield," he said. "This ordinance applies to existing stations, new stations and potential locations under renovation."

Kaplan added that the ordinance would also prohibit party stores that already sell alcohol from erecting gas pumps.

The ordinance, listed as No. C-736, Sec. 26-2, now includes definitions for an automobile service station instead of the previous term, gasoline service station.

The ordinance states that alcohol should not be conveniently available to the motoring public at a place where they purchase fuel for their vehicles because it could encourage or facilitate alcohol-related driving offenses and accidents that might not occur if the driver had to make a separate stop to purchase alcohol.

Kaplan said that with the new ordinance, the township wouldn't have cases of a drunk driver plowing a vehicle into a gas pump in pursuit of purchasing liquor.

The ordinance also states that alcohol sales at service stations would also increase traffic and parking on properties that can't handle the demand.

Service stations are also open much later than other stores where alcohol is sold, which would also increased the potential for alcohol-related incidents, according to township officials.

The ordinance also states that the multiple transactions service station employees handle at once is inconsistent with the proper administration and enforcement of the state's liquor control laws and prohibitions on sales to minors and visibly intoxicated persons.

"We've done studies with decoys that were conducted by the West Bloomfield police," Kaplan said. "Studies and our experience show that employees are better able to detect underage drinkers and intoxicated persons (when they don't have to monitor gasoline pumps)."

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Ad Alert

Alcohol Advertising and Youth

- Research reports show that exposure to alcohol advertising shapes young adolescents' attitudes toward alcohol, their intentions to drink, and underage drinking behavior.¹
- Alcohol advertising appeared during all 15 of the top teen television shows in 2002. Alcohol advertisers spent 60% more to advertise on these shows in 2002, including *Survivor*, *Fear Factor*, and *That '70s Show*, than in 2001.²
- Alcohol advertisers spent \$990 million (22% more) for TV ads in 2002 and placed 39% more alcohol ads on TV than in 2001.³
- Twenty-two percent of the alcohol ads aired on TV in 2002 were more likely to be seen by youth 12-20 years of age than adults. These 66,218 ads were also more likely to be seen by youth ages 12-20 than by young adults ages 21-34.⁴
- According to a 1998 advertising agency study, youths six to 17 years of age identified Budweiser's cartoon ads as their favorite, more popular than any ads for Pepsi, Barbie, Snickers, or Nike.⁵
- A 1996 survey of children ages nine to 11 found that children were more familiar with Budweiser's television frogs than with Kellogg's Tony the Tiger, the Mighty Morphin' Power Rangers, or Smokey Bear.⁶
- American young people heard more radio advertising for beer and distilled spirits than did people of legal drinking age in 2001 and 2002.⁷
- Magazine ads for alcoholic beverages reached more youth 12 – 20 years of age than adult readers in 2001.⁸
- High intensity point-of-sale advertising is common in convenience stores and combination gas station/convenience markets where 75% of teenagers shop weekly. Alcohol marketing at the point of sale (interior and exterior signage, floor displays and alcohol-branded functional objects such as counter change mats with an alcohol company logo) often includes low height alcohol ads that are in the sight line of children and adolescents as opposed to adults.⁹



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¹ S.E. Martin et al., "Alcohol Advertising and Youth," *Alcoholism: Clinical and Experimental Research* 26 (2002): 900-906.

² Loc. cit.

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MEMORANDUM



cityofnovi.org

TO: MEMBERS OF THE PLANNING COMMISSION
FROM: KRISTEN KAPELANSKI, AICP, PLANNER *Kape*
THRU: BARBARA MCBETH, AICP, DEPUTY DIRECTOR
SUBJECT: TEXT AMENDMENT 18.239 - GAS STATION LIQUOR SALES
DATE: NOVEMBER 6, 2009

At the October 28th Planning Commission meeting, the Commission discussed a possible text amendment to regulate liquor, beer and wine sales at gas stations. The Commission asked staff to provide additional information regarding the issue at an upcoming meeting, before "setting" a public hearing date. Among the additional information requested by the Commission were the location of existing and potential gas stations in the City of Novi, an understanding of what the State Law allows, information regarding surrounding community's regulations on this matter, and recommendations from staff.

Liquor Control Commission

The Liquor Control Commission of the State of Michigan regulates and approves all liquor licenses within the State. Presently, gas stations are permitted to apply for and receive a liquor license for the sale of packaged alcohol to be consumed off the premises. In order to receive a license, gas stations must meet one of the two following requirements: 1) The station must be at least 55,000 square feet; or 2) The station must carry a minimum of \$250,000 worth of merchandise (excluding alcohol sales). An application would then be filed and reviewed by the Liquor Control Commission.

Novi's Current Ordinances for Gas Stations

Novi's Zoning Ordinance currently allows gas stations as a Special Land Use in the B-2, Community Business District, and in the B-3, General Business District. Additionally, gas stations are a Permitted Use in the FS, Freeway Service District.

The standards for a gas station in the B-2 or B-3 districts are as follows:

- 1) Entrances to the gas station shall be no less than one hundred feet from a street intersection or from adjacent residential districts;
- 2) The minimum lot area shall be one acre;

- 3) A service station shall be located on a site so as to minimize its impact on any adjacent residential district, OS-1, OSC or B-1 District;
- 4) Attached canopies shall comply with the minimum setback standards of the district and detached canopies shall comply with the setback standards for accessory structures;
- 5) The storage of vehicles overnight is prohibited except for working vehicles (wreckers, etc.) and vehicles or trailers for general rental and those awaiting mechanical repair. Wrecked vehicles may be stored for a period not to exceed twenty-four hours;
- 6) A noise impact statement is required.

There are no additional special standards for gas stations in the Freeway Service district. There are a total of 12 gas stations currently located in Novi, with one of those located in the Freeway Service District, one located in the RA District as part of a PUD/Consent Judgment and the remaining 10 located in the B-2 or B-3 districts. Additional land is zoned or planned for land uses that would allow gas stations. Please see the attached maps for additional information.

Other Local Ordinances

I have done a review of ordinances in the area and found three Metro-Detroit communities that currently regulate the sale of liquor, beer and wine at gas stations. The zoning ordinances of West Bloomfield and Southfield prohibit the sale of any alcohol at gas stations. The City of Troy requires all gas stations wishing to sell alcohol to appear before their Liquor Advisory Committee which reviews the request to determine whether or not it meets the State standards for a liquor license to sell alcohol at a gas station. Generally these standards require the gas station to be either a minimum of 55,000 sq. ft. or carry a minimum of \$250,000 worth of merchandise mirroring the current State legislation. The Troy Liquor Advisory Committee then either recommends the City has no additional comment for the State or passes along a negative recommendation stating the applicant does not meet the required State standards.

Liquor License Already Granted

Staff is aware of only one gas station in Novi with a license from the Liquor Control Commission to sell liquor, beer and wine: the Sunshine Market at the southeast corner of Novi Road and Thirteen Mile Road. This license was reviewed by City Departments, including the Police Department, at the request of the Liquor Control Commission. Since there are currently no local ordinances regulating the sale of alcohol at gas stations, approval was recommended. Additionally, the State

Law appears to allow grocery stores and warehouse club stores (such as Meijer, Kroger, Costco and Sam's Club) to provide fuel pumps along with alcohol sales in the store. The Sam's Club on Wixom Road, south of Grand River has fuel pumps and alcohol for sale as part of their larger warehouse store operation.

Ordinance Options

It seems Novi would have several options when considering the policy issues related to the question and Zoning Ordinance provisions to address the sale of beer, wine and liquor at gas stations:

(1) The Planning Commission could recommend leaving the ordinance as it is, effectively allowing gas stations to sell alcohol provided the gas station operator obtain the proper approval from the State (which also leaves us to follow future changes at the state level without any local rules);

(2) A text amendment prohibiting the sale of any alcoholic beverages at gas stations could be recommended to the City Council (an example, modified from West Bloomfield's ordinance, was provided in the previous packet); or

(3) A text amendment listing the sale of alcoholic beverages at gas stations as a Special Land Use, subject to one or more of the minimum requirements for a liquor license from the State could be proposed for the B-2, B-3 and FS zoning districts. Gas stations are already a Special Land Use in the B-2 and B-3 districts.

Attached you will find a map indicating existing gas stations throughout the city and a map showing the districts that currently permit gas stations as either a Principal Permitted Use or Special Land Use as well as a pertinent newspaper article.

The Macomb Daily (macombdaily.com), Serving Macomb County

News

Liquor licenses stir debate

Sunday, August 9, 2009

By Carol Hopkins, Journal Register News Service

Stores, gas stations spar over the right to sell booze

Sixty-five Oakland County gas stations now sell alcohol and Randy Yaldo, owner of the Get & Go Mini Mart in Ferndale, isn't happy about the fact more stations are getting liquor licenses.

"The state makes it easier for them," said Yaldo, who has owned his business on Hilton Road for nearly three years.

"The state should put party stores' (requests) before gas stations. Gas stations will always have the gas to sell."

All around Oakland County, gas stations have requests for liquor licenses pending with the state.

In Michigan, there are 1,650 active licensees with gas pumps, said Andrea Miller, spokeswoman with the Michigan Liquor Control Commission.

Among the total are Meijer stores, Sam's Clubs and Costcos.

Michigan application numbers prove more stations are asking for licenses. In 2004, 70 gas stations applied for licenses, according to Miller. In 2008, 170 applied and, this year, 95 have applied through July 22.

Applicants can have no less than \$250,000 in inventory at the time of application for a license, Miller said.

As new gas stations expand and carry more food items, more are now able to meet liquor-law inventory requirements, officials noted.

Jane Shallal, president and CEO of the Farmington Hills-based Associated Food and Petroleum Dealers, said because gas stations don't have repair shops and their profit margin is low on gasoline, "they are trying to drive people into the stores, and they're applying to sell beer and wine."

Betty Fortino, Waterford Township clerk, said Waterford has seen an increase in gas station liquor law applications in the past three years.

"As soon as one got a license, the others wanted one," Fortino said.

Police are required to do background checks on liquor license applicants.

"In the past few years, the state keeps changing the law and lowering the requirements," Waterford Police Chief Daniel

McCaw said.

"The township board has consistently said no to gas station licenses, and then the applicant appeals to the state and most times they're approved."

Dave Payne, Bloomfield Township supervisor, said he is noticing a rise in gas station liquor license applicants.

"We've had two or three in the last year," he said.

"We are generally opposed. There are enough places to buy packaged liquor. Some applicants also have fast food associated with their station and mixing the two is just looking for violations and problems."

Party store owners don't like the new competition.

Steven Zeer, owner of Quick Stop Party Store in West Bloomfield, told the West Bloomfield board in June that giving the gas stations access to liquor licenses is not good for the township.

"The package stores in our township have always hired adult clerks, supported licensing and mandatory alcohol server training," he said.

In contrast, he said, gas stations often are staffed by teenagers and the parent companies don't push for the same training for those employees. Zeer also said that such a change would kill his business.

Robert, a clerk who did not want to give his last name at a White Lake Township-based party store, said granting gas station liquor licenses is wrong.

"The only reason the city and state are doing it is to make more tax dollars from it, and it's hurting our stores," he said.

"Governments are going broke and that's why they're doing it."

On July 2, West Bloomfield trustees passed a zoning ordinance that prohibits gas stations from selling alcoholic beverages in the township.

The township modeled its ordinance on the City of Southfield's, in effect for 15 years, said Jack Beras, Southfield city attorney.

West Bloomfield Trustee Steve Kaplan said the township's ordinance could be challenged in court.

"We believe the ordinance will be upheld because it relates to the essence of government promoting the health, safety and welfare of its residents," said Kaplan.

"Local control is still a viable concept in Michigan."

Beras, of Southfield, said over the years, he has only seen one challenge to Southfield's ordinance, but that applicant withdrew.

"The Liquor Control Commission gives respect to local zoning ordinances," Beras said.

The Liquor Control Commission's Ken Wozniak doesn't see the trend changing for gas station applications.

"They're always trying to find a way," Wozniak said.

"It's lucrative. Lots of (gas station) buildings now are quite substantial convenience stores (and meet the criteria)."

As to the charge that the state is promoting drunken driving by allowing more sales at gas stations, Wozniak disagrees.

"Who doesn't drive to get a six-pack?" he asked.

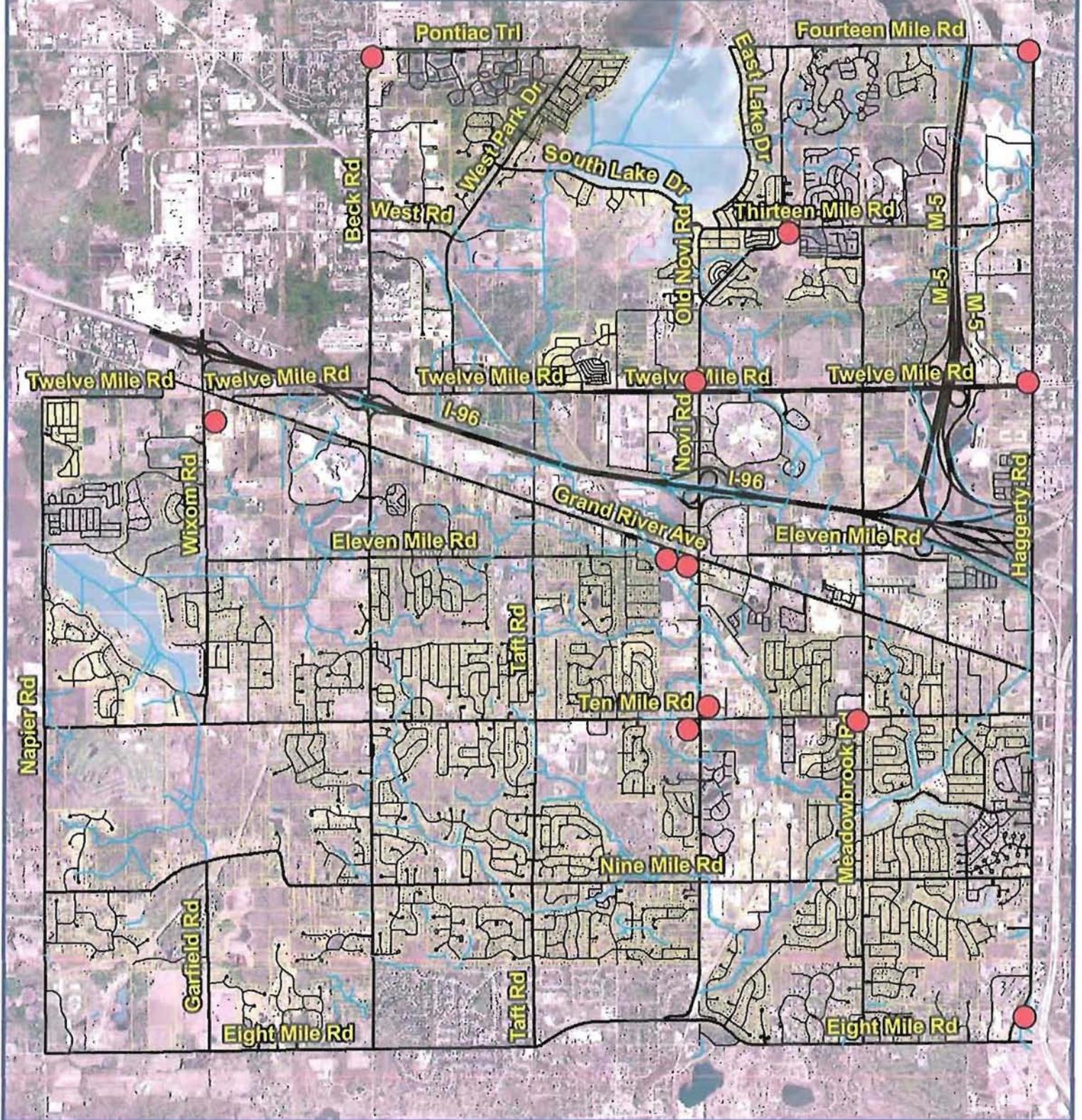
"If they don't get it at a gas station, they'll drive to get it at a 7-Eleven."

URL: <http://www.macombdaily.com/articles/2009/08/09/news/srv0000006072189.prt>

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Text Amendment 18.239

Existing Gas Stations



Map Author: Kristen Kapelanski
Date: 11/06/09
Project: Liquor License Text Amendment
Version #: 1.0

Map Legend

 Existing Gas Station

MAP INTERPRETATION NOTICE

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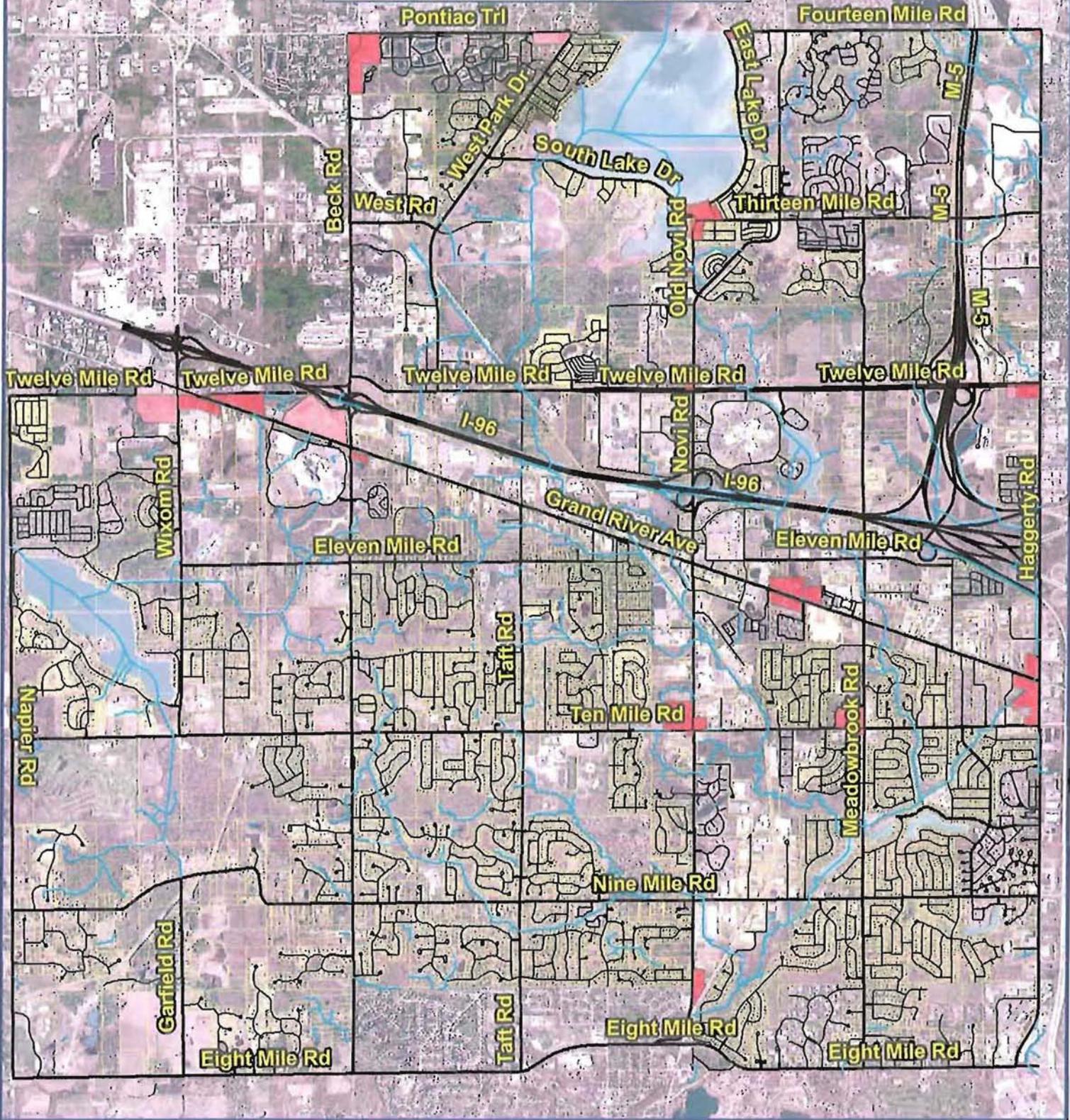
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1 inch = 4,390 feet

Text Amendment 18.239

Zoning Districts Permitting Gas Stations



Map Author: Kristen Kapelanski
 Date: 11/06/09
 Project: Liquor License Text Amendment
 Version #: 1.0

Map Legend

- B-2: Community Business District
- B-3: General Business District
- FS: Freeway Service District

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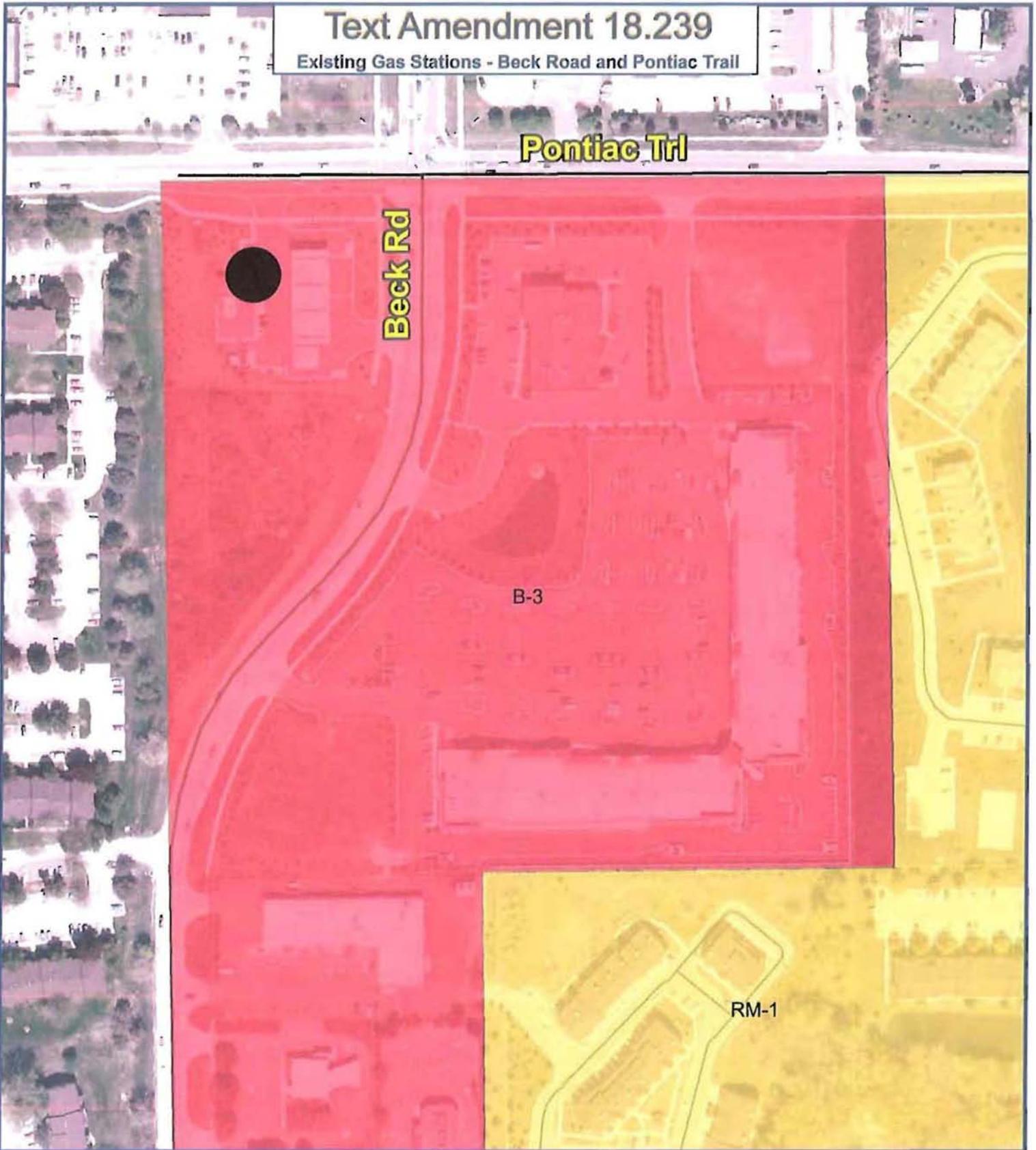


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Text Amendment 18.239

Existing Gas Stations - Beck Road and Pontiac Trail



Map Author: Kristen Kapelanski
Date: 11/06/09
Project: Liquor License Text Amendment
- Map 1 Zoom
Version #: 1.0

Map Legend

● Existing Gas Station

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1 inch = 181 feet

Text Amendment 18.239

Existing Gas Stations - Fourteen Mile Road and Haggerty Road

Fourteen Mile Rd

B-3

OST

Haggerty Rd

Map Author: Kristen Kapelanski
Date: 11/08/09
Project: Liquor License Text Amendment
- Map 2 Zoom
Version #: 1.0

Map Legend

● Existing Gas Station

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0 37.5 75 150 225 300
Feet



1 inch = 181 feet

Text Amendment 18.239

Existing Gas Stations - Twelve Mile Road and Haggerty Road

OST

Twelve Mile Rd

Twelve Mile Rd

B-2

B-3

Haggerty Rd

OST



Map Author: Kristen Kapelanski
Date: 11/08/09
Project: Liquor License Text Amendment
- Map 3 Zoom
Version #: 1.0

Map Legend

● Existing Gas Station

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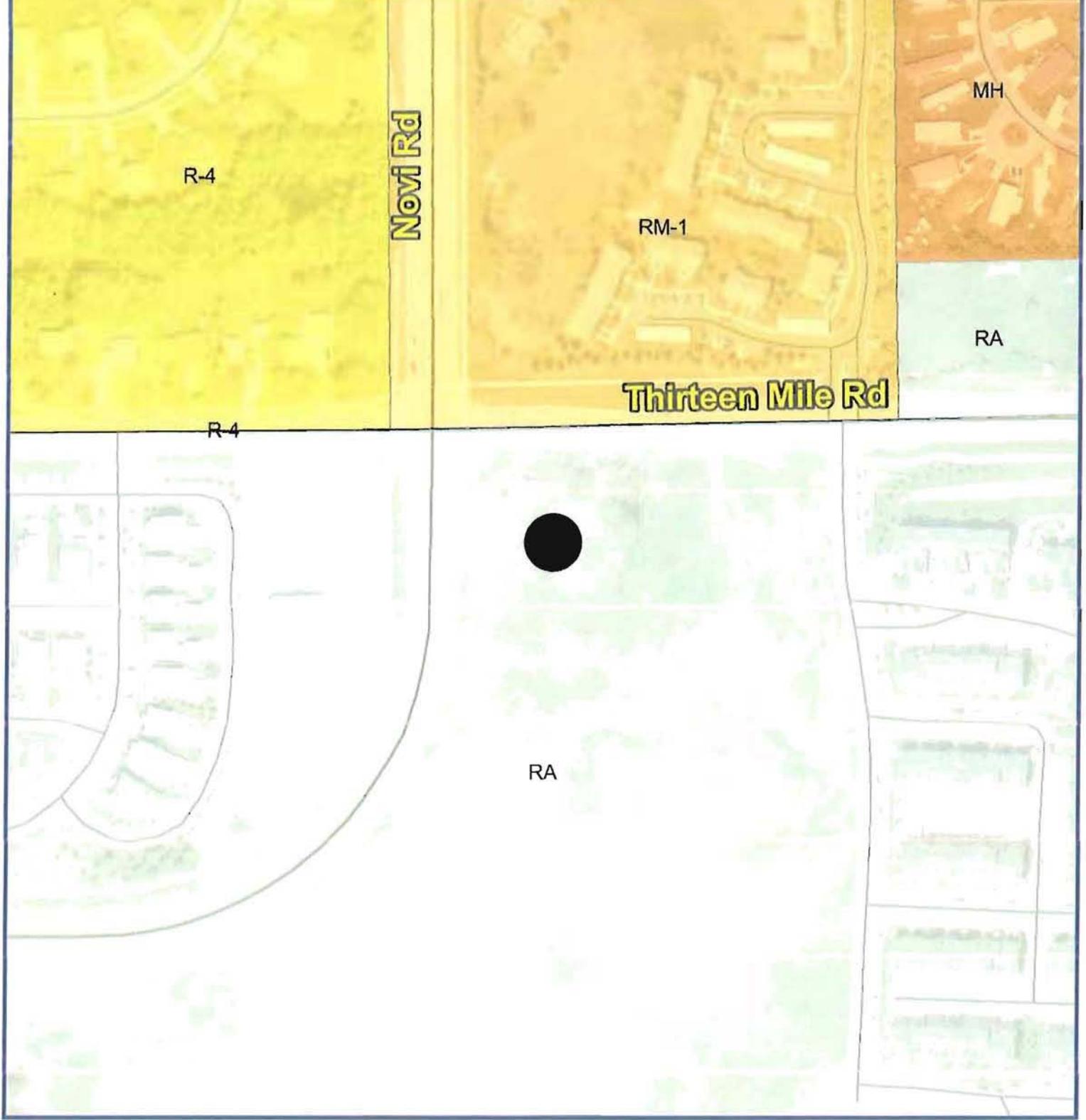
0 37.5 75 150 225 300
Feet



1 inch = 181 feet

Text Amendment 18.239

Existing Gas Stations - Thirteen Mile Road and Old Novi Road



Map Author: Krislen Kapelanski
 Date: 11/06/09
 Project: Liquor License Text Amendment
 - Map 4 Zoom
 Version #: 1.0

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Map Legend

● Existing Gas Station



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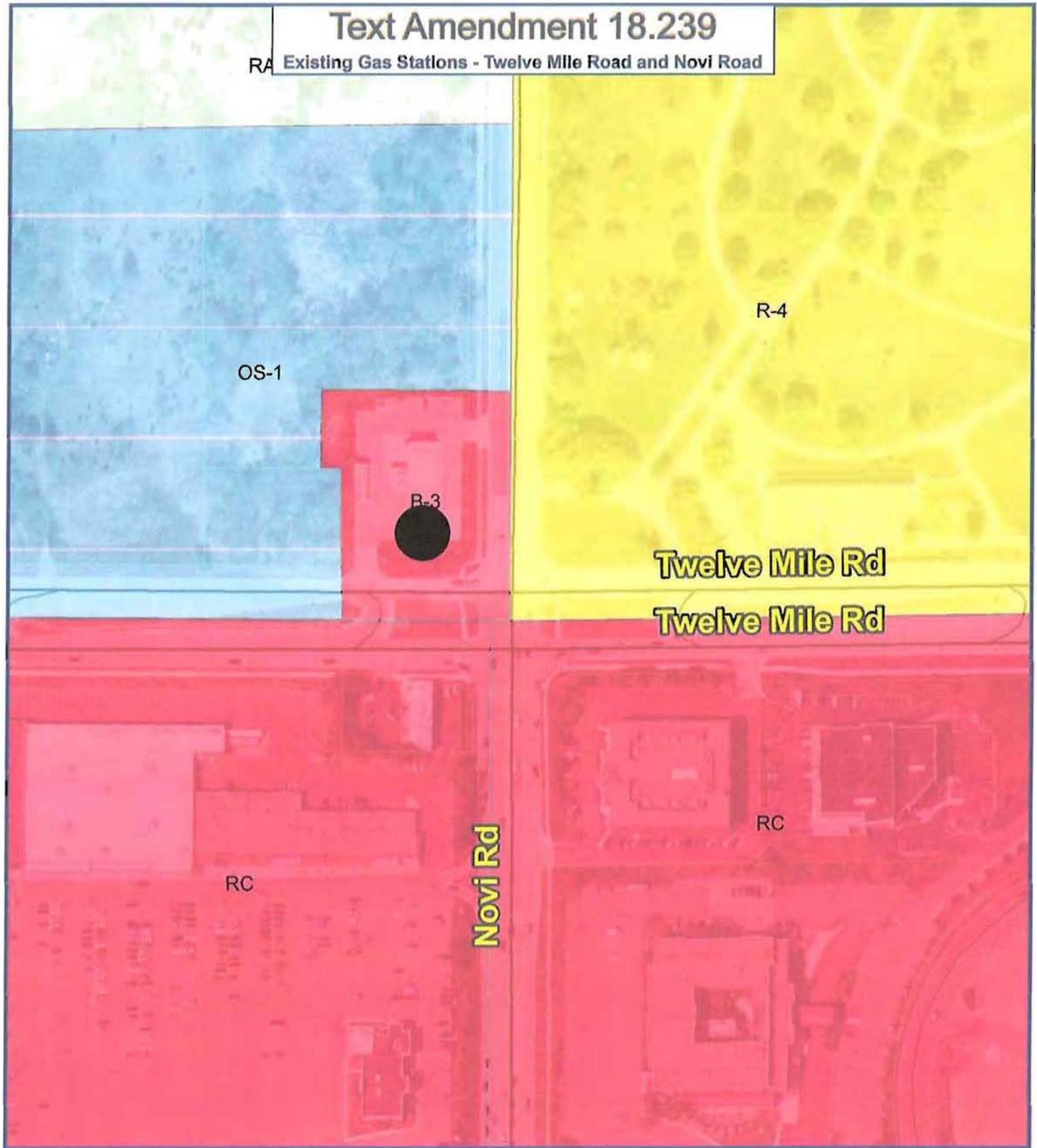
0 37.5 75 150 225 300
Feet

1 inch = 161 feet



Text Amendment 18.239

RA Existing Gas Stations - Twelve Mile Road and Novi Road



Map Author: Kristen Kapelanski
Date: 11/08/09
Project: Liquor License Text Amendment
- Map 5 Zoom
Version #: 1.0

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Map Legend

● Existing Gas Station



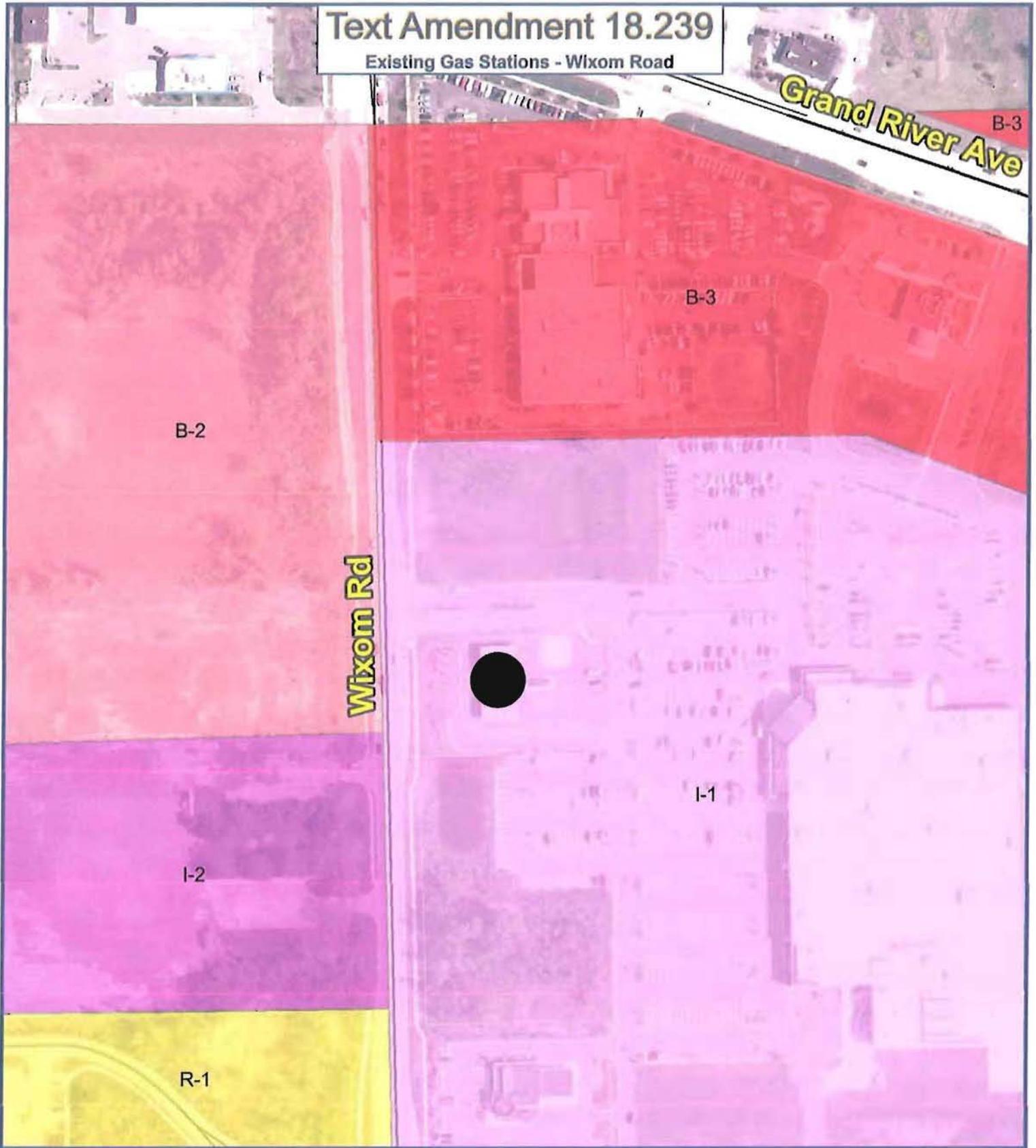
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1 inch = 181 feet

Text Amendment 18.239

Existing Gas Stations - Wixom Road



Map Author: Kristen Kapelanski
Date: 11/06/09
Project: Liquor License Text Amendment
- Map 6 Zoom
Version #: 1.0

Map Legend

● Existing Gas Station

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1 inch = 101 feet

EXPO

Text Amendment 18.239

Existing Gas Stations - Grand River Avenue

I-1

TC

TC

Novi Rd

Grand River Ave

TC-1

TC-1

TC

TC-1

TC-1

I-1



Map Author: Kristen Kapelanski
Date: 11/08/09
Project: Liquor License Text Amendment
- Map 7 Zoom
Version #: 1.0

Map Legend

● Existing Gas Station

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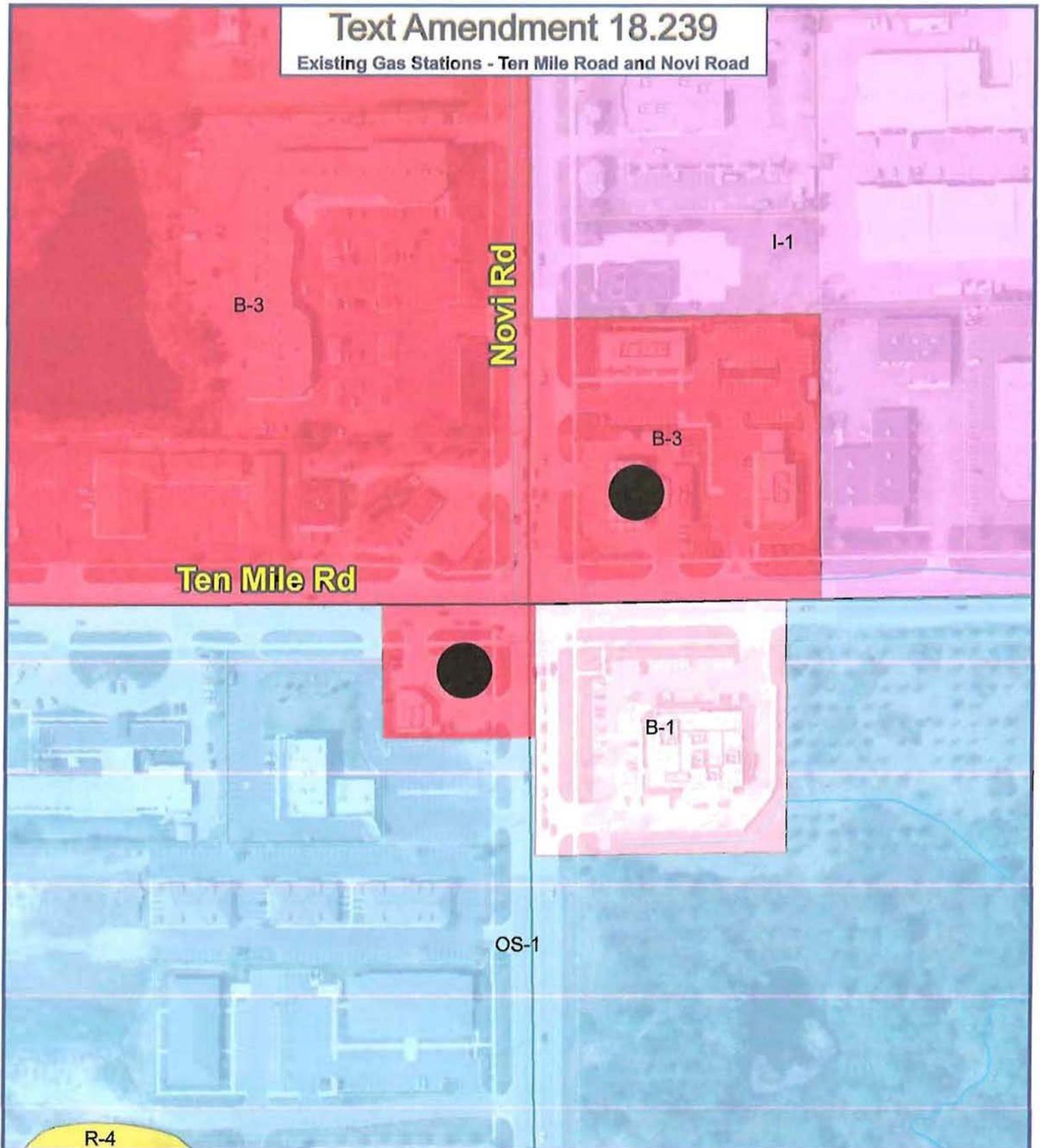
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1 inch = 181 feet

Text Amendment 18.239

Existing Gas Stations - Ten Mile Road and Novi Road



Map Author: Kristen Kapelanski
Date: 11/08/09
Project: Liquor License Text Amendment
- Map 8 Zoom
Version #: 1.0

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Map Legend

● Existing Gas Station



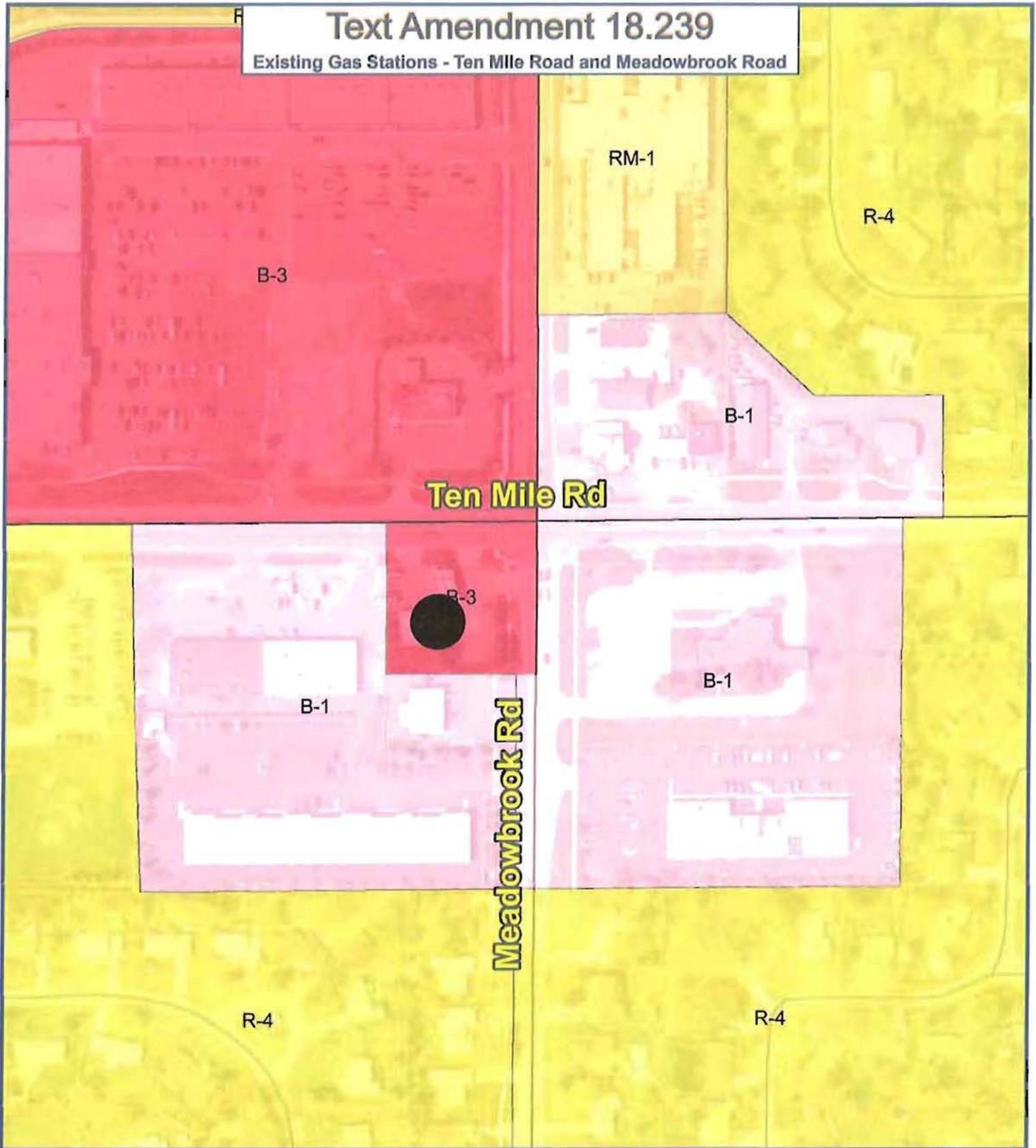
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1 inch = 181 feet

Text Amendment 18.239

Existing Gas Stations - Ten Mile Road and Meadowbrook Road



Map Author: Kristen Kapelanski
Date: 11/06/09
Project: Liquor License Text Amendment
- Map 9 Zoom
Version #: 1.0

Map Legend

● Existing Gas Station

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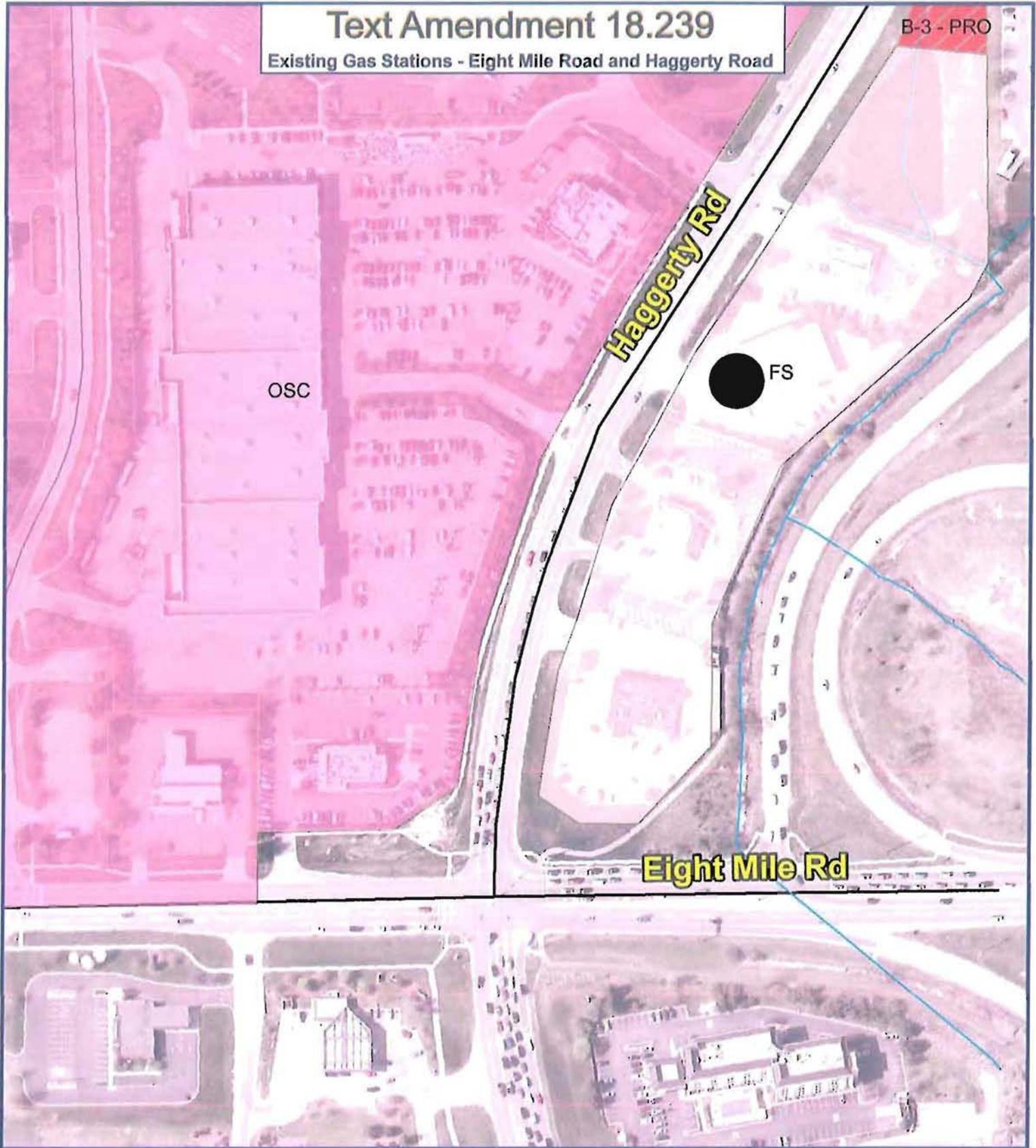


1 inch = 161 feet

Text Amendment 18.239

Existing Gas Stations - Eight Mile Road and Haggerty Road

B-3 - PRO



Map Author: Kristen Kapelanski
Date: 11/08/09
Project: Liquor License Text Amendment
- Map 10 Zoom
Version #: 1.0

Map Legend

● Existing Gas Station

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1 inch = 181 feet

MEMORANDUM



TO: BARBARA MCBETH, COMMUNITY DEVELOPMENT
FROM: DAVID E. MOLLOY, CHIEF OF POLICE *DEM*
KEITH A. WUOTINEN, LIEUTENANT *KW*
SUBJECT: GAS STATION LIQUOR LICENCES
DATE: NOVEMBER 13, 2009

Background:

The Planning Commission is having a public hearing on November 18, 2009, regarding the issue of liquor licenses at gas stations. Currently, under State law, gas stations can apply for and receive a liquor license for pre-packaged beer, wine and/or liquor, under Michigan Compiled Law 436.1541 of the Michigan Liquor Control Code. The code also specifies that the gas station must have at least \$250,000.00 (at cost) of non-alcohol inventory (excluding gasoline), of those goods and services customarily marketed by approved types of businesses.

Some communities allow their gas stations to have liquor licenses, some prohibit this and others regulate the matter as far as business size, location and other factors. There are several reasons why a governmental body may choose to regulate or prohibit these types of sales.

Reasons to prohibit gas stations from having liquor licenses:

- 1) Alcohol is a product that should not conveniently be available to the motoring public while purchasing fuel. This ease of access to alcohol while driving could increase the instances where a driver may choose to purchase alcohol and then consume it (illegally) while driving.
- 2) Gas station employees may have a difficult time detecting intoxicated persons in the same way as other licensed establishments before making the alcohol sale. Also there is no required server training for persons selling alcohol for off-premises consumption.
- 3) Many gas stations are open later hours than other traditional off-site stores, thereby increasing late night sales of alcohol to persons who may be leaving on-premises establishments, and could cause increased consumption by those persons driving.
- 4) The additional sales of alcohol could increase the amount of vehicular traffic at these gas stations beyond the point they were designed to handle.
- 5) If prohibited, this may decrease the number of drunk drivers on the roadways.

- 6) Having more licensed establishments in Novi will increase the number of businesses that the police department will have to inspect on a quarterly basis, thereby taking up more police time and resources.

Other Jurisdictions response on this topic:

The issue of whether to allow these licenses at gas stations in any given community has generated some discussion and debate in other communities as well, with some of those communities choosing to regulate or ban alcohol sales at gas stations. For example, in July 2009, the West Bloomfield Township Board of Trustees unanimously approved a zoning ordinance that operates as a complete ban on alcohol sales at gas stations. The rationale that was given in West Bloomfield is that such a ban "will reduce the amount of drinking and driving in West Bloomfield", according to Trustee Steve Kaplan, as quoted in a Spinal Column article on July 8, 2009.

The Michigan Liquor Control Commission allows such a license, but they also do not like the licenses. Ken Wozniak, a spokesperson for the Michigan Liquor Control Commission, was quoted as saying "[t]he commission still, philosophically, doesn't like the idea. They think it's not a good public policy." (July 1, 2008, "The Fresh Story").

Recommendation and Conclusion:

The police department recommends that gas stations not be allowed to have these liquor licenses. However, if the licenses are allowed, it would be preferable to have them allowed in a way that permits reasonable regulation and restriction such that any unintended or undesirable consequences do not occur. This could be accomplished through Special Land Use Approval with some minimum requirements set forth, including a duplication of the requirements set forth in the liquor control code that requires a certain level of inventory (above and beyond inventory related to gasoline and alcohol). By making the inventory requirements part of the Novi Code, we can then also enforce those provisions. Currently the MLCC does not conduct any type of inspections to ensure that gas stations maintain the level of inventory that they claim to have. If Novi is going to allow these licenses then perhaps an inspection provision for local authorities can be included to verify stated inventory and other requirements.

cc: Clay J. Pearson, City Manager
Thomas Schultz, Esq., City Attorney

(h) Dining cars or other railroad or Pullman cars, watercraft, or aircraft, where alcoholic liquor may be sold for consumption on the premises only, subject to rules promulgated by the commission.

(i) Brewpubs where beer manufactured on the premises by the licensee may be sold for consumption on or off the premises by any of the following licensees:

(i) Class C.

(ii) Tavern.

(iii) Class A hotel.

(iv) Class B hotel.

(j) Micro brewers where beer produced by the micro brewer may be sold to a consumer for consumption on or off the brewery premises.

(k) Class G-1 license where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only to members required to pay an annual membership fee and consumption is limited to these members and their bona fide guests.

(l) Class G-2 license where beer and wine may be sold for consumption on the premises only to members required to pay an annual membership fee and consumption is limited to these members and their bona fide guests.

(2) A wine maker may sell wine made by that wine maker in a restaurant for consumption on or off the premises if the restaurant is owned by the wine maker or operated by another person under an agreement approved by the commission and located on the premises where the wine maker is licensed.

(3) A wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker and may sell the wine made by that wine maker for consumption off the premises at a location other than the premises where the wine maker is licensed to manufacture wine, under the following conditions:

(a) The premises upon which the wine tasting occurs conforms to local and state sanitation requirements.

(b) Payment of a \$100.00 fee per location is made to the commission.

(c) The wine tasting locations shall be considered licensed premises.

(d) Wine tasting does not take place between the hours of 2 a.m. and 7 a.m. Monday through Saturday, or between 2 a.m. and 12 noon on Sunday.

(e) The premises and the licensee comply with and are subject to all applicable rules promulgated by the commission.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998; Am. 2001, Act 223, Eff. March 22, 2002.

436.1539 Marina as specially designated merchant or distributor; license; conditions.

Sec. 539. A marina that is situated on 1 of the Great Lakes, on that part of an inland waterway or tributary connected to and navigable to 1 of the Great Lakes, or on a Great Lakes connecting waterway may be issued a license as a specially designated merchant or specially designated distributor, notwithstanding the fact that the marina maintains motor vehicle fuel pumps on or adjacent to the licensed premises, or maintains a financial interest in any motor vehicle fuel pumps if both of the following conditions are met:

(a) The marina's primary business is the sale of boats or the provision of services and supplies to recreational power cruisers and sailboats of the type that typically travel on the Great Lakes.

(b) The fuel pumps are used for dispensing fuel only to boats described in subdivision (a).

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998.

436.1541 Motor vehicle fuel pumps.

Sec. 541. (1) The commission shall not prohibit an applicant for or the holder of a specially designated distributor license or specially designated merchant license from owning or operating motor vehicle fuel pumps on or adjacent to the licensed premises, if both of the following conditions are met:

(a) One or both of the following conditions exist:

(i) The applicant or licensee is located in a neighborhood shopping center composed of 1 or more commercial establishments organized or operated as a unit which is related in location, size, and type of shop to the trade area that the unit serves, which provides not less than 50,000 square feet of gross leasable retail space, and which provides 5 private off-street parking spaces for each 1,000 square feet of gross leasable retail space.

(//) The applicant or licensee maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than \$250,000.00, at cost, of those goods and services customarily marketed by approved types of businesses.

(b) The site of payment and selection of alcoholic liquor is not less than 50 feet from that point where motor vehicle fuel is dispensed.

(2) The commission shall not prohibit an applicant for or the holder of a specially designated merchant license from owning or operating motor vehicle fuel pumps on or adjacent to the licensed premises if both of the following conditions are met:

(a) The applicant or licensee is located in either of the following:

(i) A city, incorporated village, or township with a population of 3,000 or less and a county with a population of 31,000 or more.

(//) A city, incorporated village, or township with a population of 3,500 or less and a county with a population of less than 31,000.

(b) The applicant or licensee maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than \$10,000.00, at cost, of those goods and services customarily marketed by approved types of businesses.

(3) The commission shall not prohibit an applicant for or the holder of a specially designated distributor license from owning or operating motor vehicle fuel pumps on or adjacent to the licensed premises if both of the following conditions are met:

(a) The applicant or licensee is located in either of the following:

(i) A city, incorporated village, or township with a population of 3,000 or less and a county with a population of 31,000 or more.

(//) A city, incorporated village, or township with a population of 3,500 or less and a county with a population of less than 31,000.

(b) The applicant or licensee maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than \$12,500.00, at cost, of those goods and services customarily marketed by approved types of businesses.

(4) A person who was issued a specially designated merchant license or specially designated distributor license at a location at which another person owned, operated or maintained motor vehicle fuel pumps at the same location may have or acquire an interest in the ownership, operation or maintenance of those motor vehicle fuel pumps.

(5) The commission may transfer ownership of a specially designated merchant license or specially designated distributor license to a person who owns or is acquiring an interest in motor vehicle fuel pumps already in operation at the same location at which the license is issued.

History: 1999, Act 69, Imd. Eff. Apr. 14, 1999.

436.1543 Disposition and use of retailers' license and license renewal fees; special fund; "license fee enhancement" defined.

Sec. 543. (1) Quarterly, upon recommendation of the commission, the state shall pay pursuant to appropriation in the manner prescribed by law to the city, village, or township in which a full-time police department or full-time ordinance enforcement department is maintained or, if a police department or full-time ordinance enforcement department is not maintained, to the county, to be credited to the sheriff's department of the county in which the licensed premises are located, 55% of the amount of the proceeds of the retailers' license fees and license renewal fees collected in that jurisdiction, for the specific purpose of enforcing this act and the rules promulgated under this act. Forty-one and one-half percent of the amount of the proceeds of retailers' license and license renewal fees collected shall be deposited in a special fund to be annually appropriated to the commission for carrying out the licensing and enforcement provisions of this act. Any unencumbered or uncommitted money in the special fund shall revert to the general fund of the state 12 months after the end of each fiscal year in which the funds were collected. The legislature shall appropriate 3-1/2% of the amount of the proceeds of retailers' license and license renewal fees collected to be credited to a special fund in the state treasury for the purposes of promoting and sustaining programs for the prevention, rehabilitation, care, and treatment of alcoholics. This subsection does not apply to retail license fees collected for railroad or Pullman cars, watercraft, or aircraft, or to the transfer fees provided in section 529.