

# MEMORANDUM



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

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At the October 28<sup>th</sup> 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

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News

## Liquor licenses stir debate

Sunday, August 9, 2009

By Carol Hopkins, Journal Register News Service

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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."

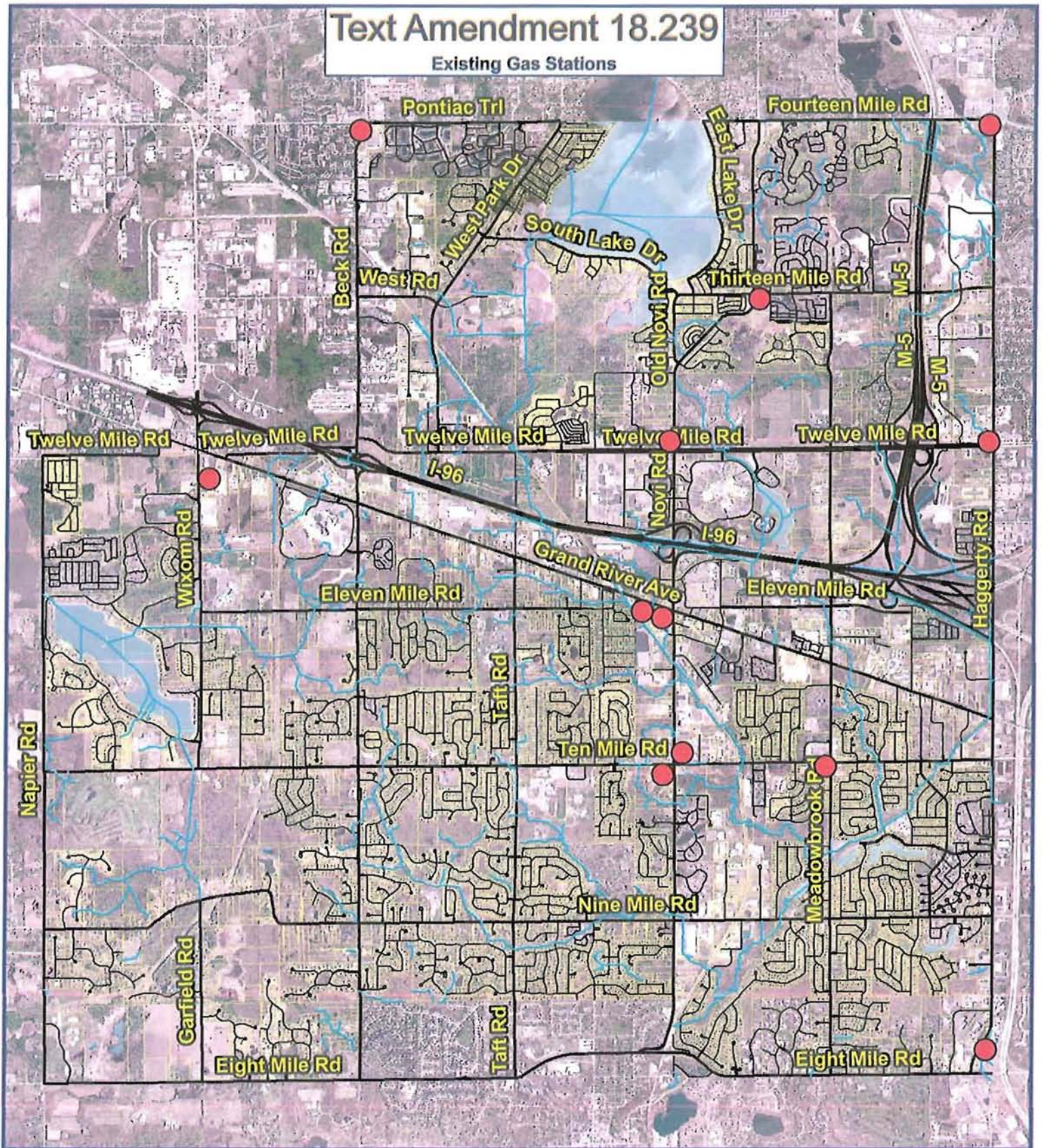
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URL: <http://www.macombdaily.com/articles/2009/08/09/news/srv0000006072189.prt>

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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

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.



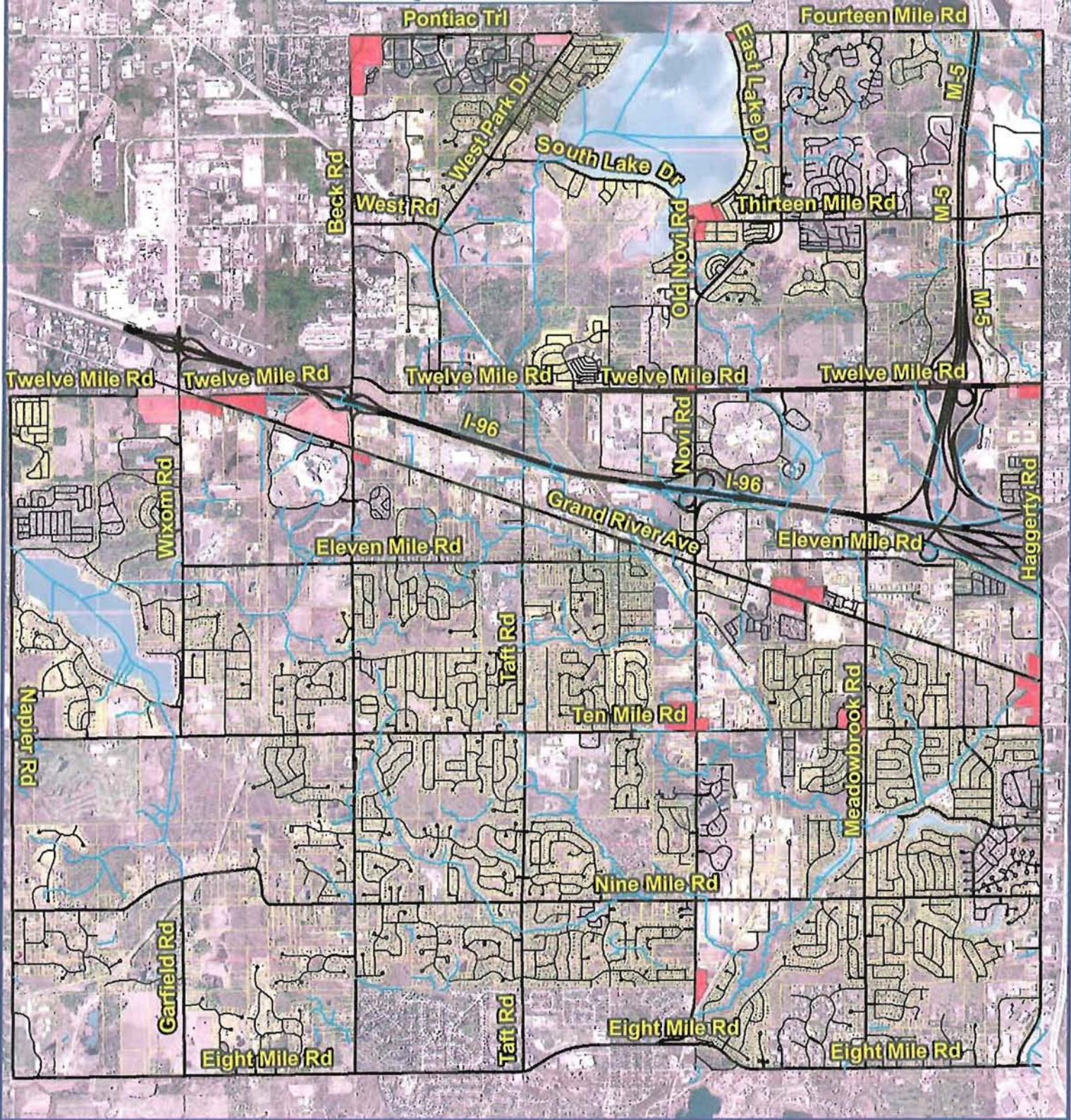
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1 inch = 4,390 feet

# Text Amendment 18.239

## Zoning Districts Permitting Gas Stations



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

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### Map Legend

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



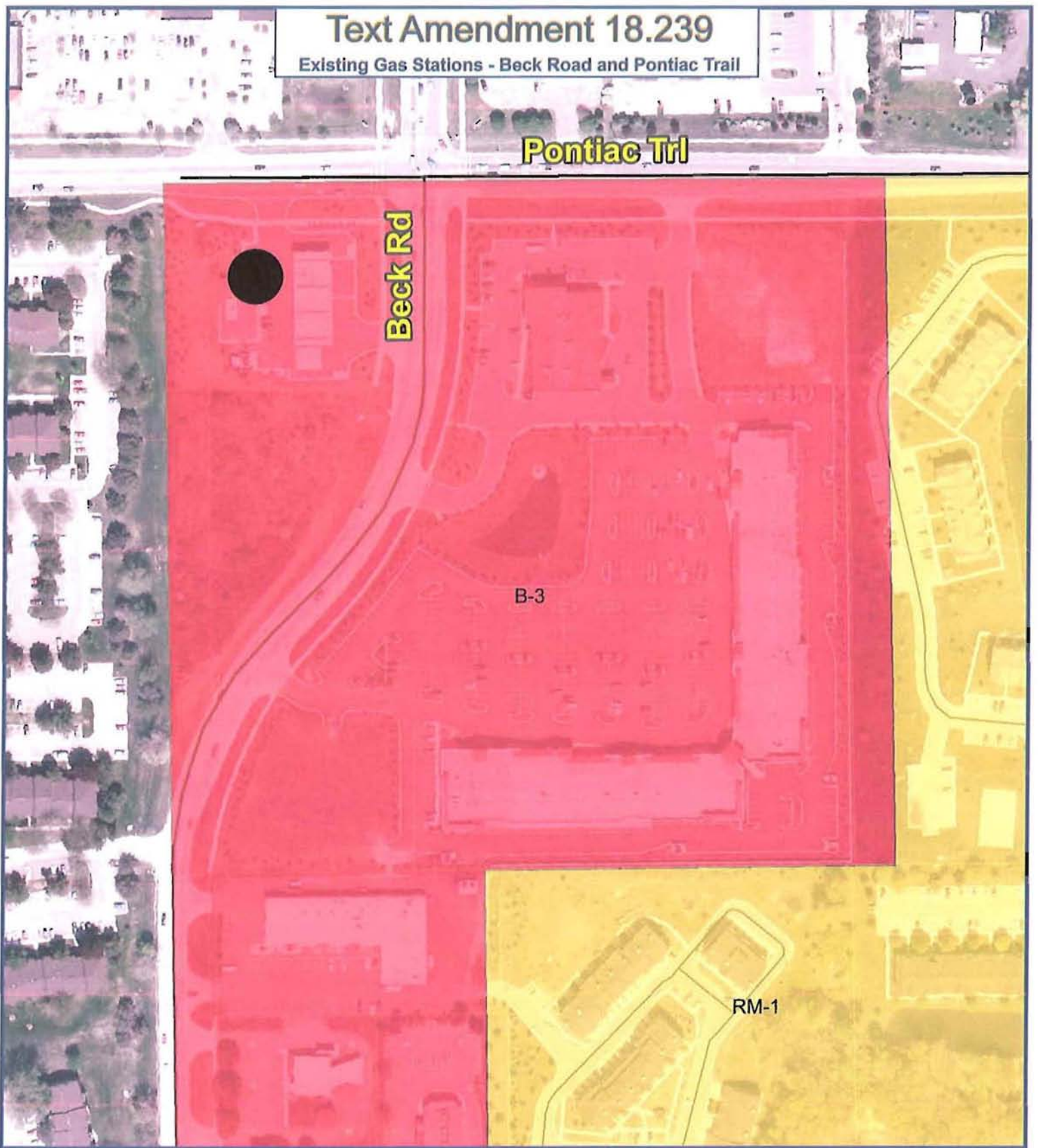
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# Text Amendment 18.239

Existing Gas Stations - Beck Road and Pontiac Trail



Map Author: Kristen Kapelanski  
Date: 11/05/09  
Project: Liquor License Text Amendment  
- Map 1 Zoom  
Version #: 1.0

### Map Legend

● Existing Gas Station

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# Text Amendment 18.239

Existing Gas Stations - Fourteen Mile Road and Haggerty Road

Fourteen Mile Rd

B-3

Haggerty Rd

OST

Map Author: Kristen Kapelanski  
Date: 11/06/09  
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: 11/06/09  
Project: Liquor License Text Amendment  
- Map 3 Zoom  
Version #: 1.0

### Map Legend

● Existing Gas Station

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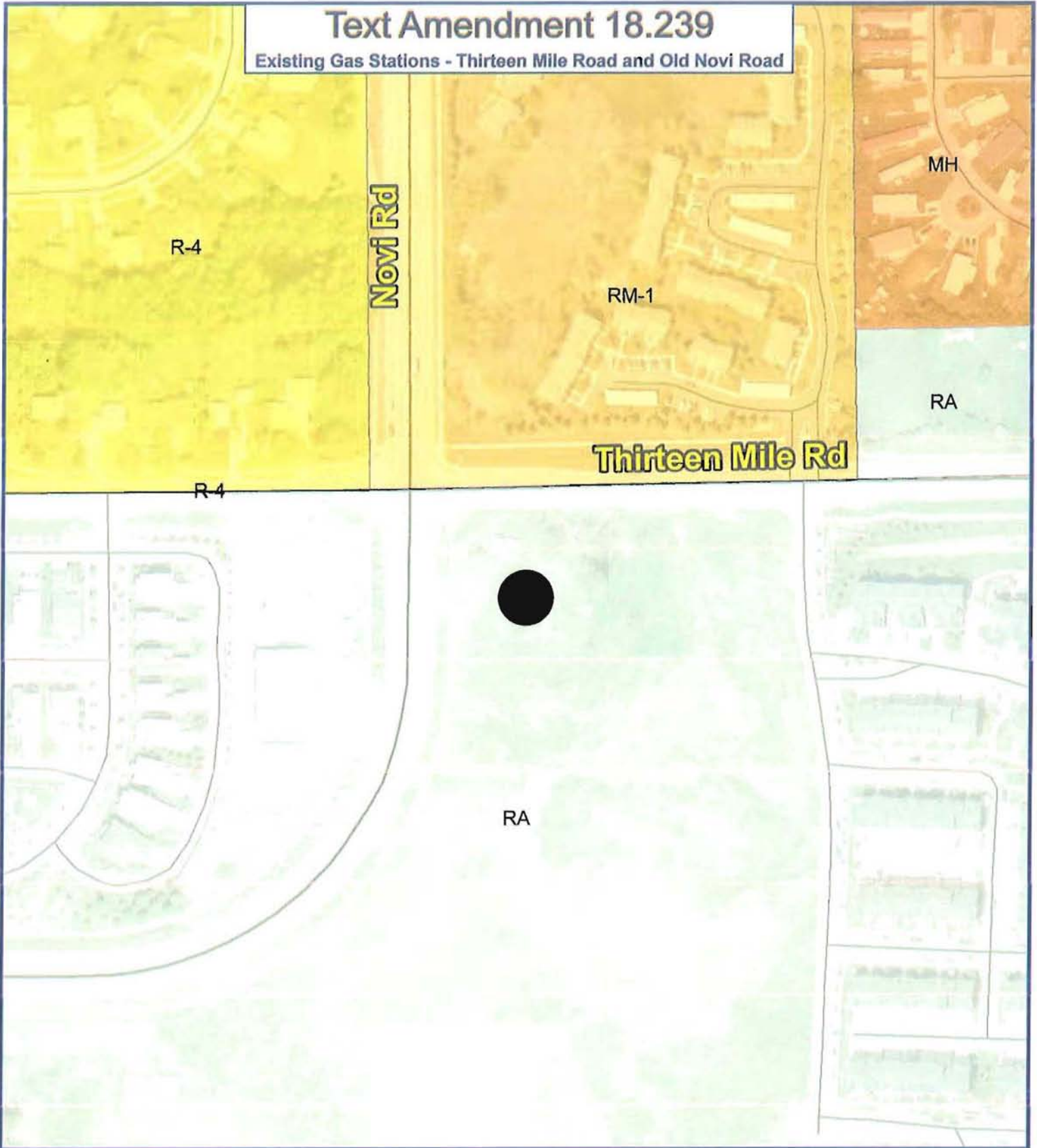
0 37.5 75 150 225 300  
Feet



1 inch = 181 feet

# Text Amendment 18.239

Existing Gas Stations - Thirteen Mile Road and Old Novi Road



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

### Map Legend

● Existing Gas Station

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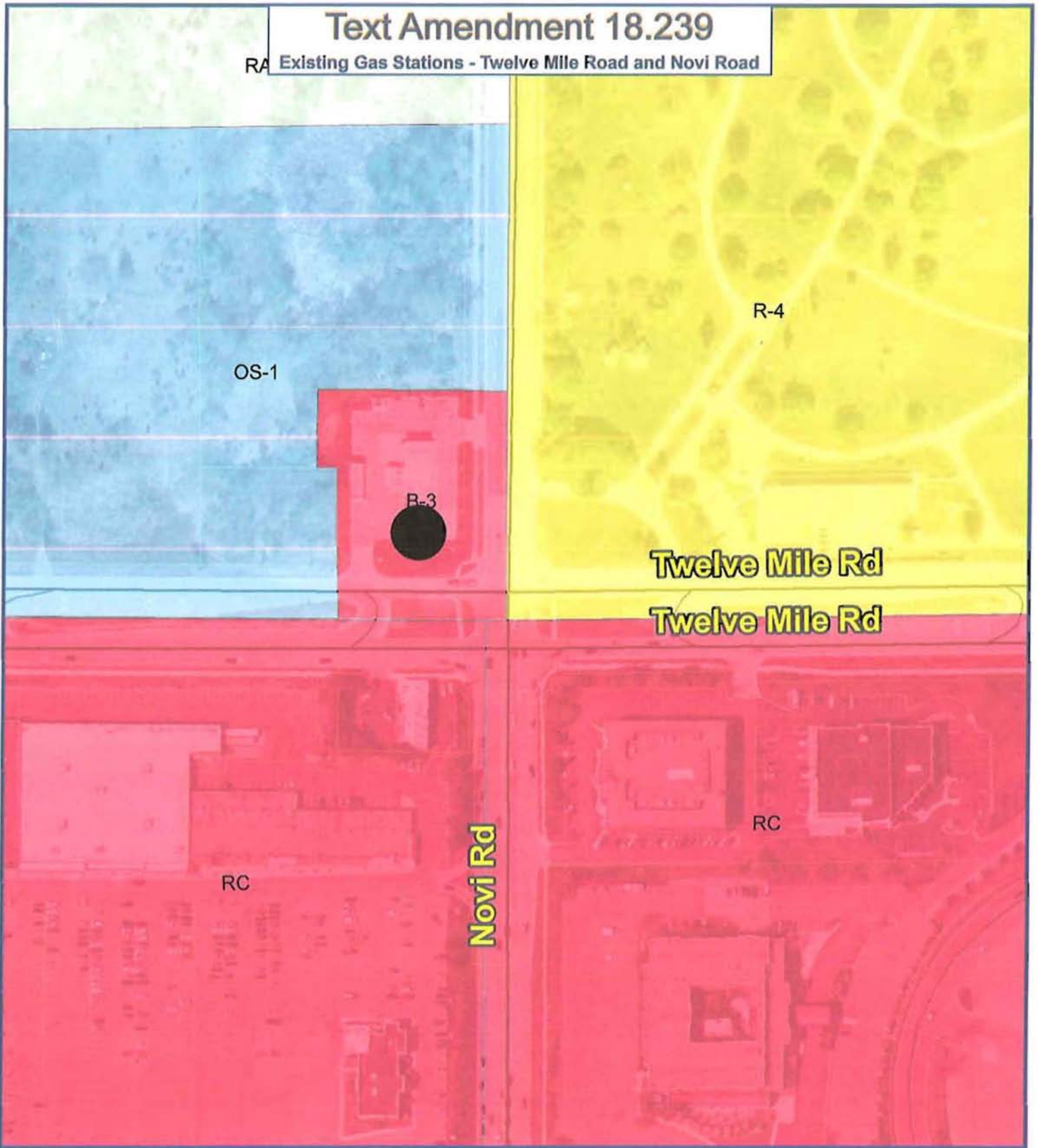
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1 inch = 181 feet

# Text Amendment 18.239

RA Existing Gas Stations - Twelve Mile Road and Novi Road



Map Author: Kristen Kapetanski  
Date: 11/06/09  
Project: Liquor License Text Amendment  
- Map 5 Zoom  
Version #: 1.0

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#### Map Legend

● Existing Gas Station



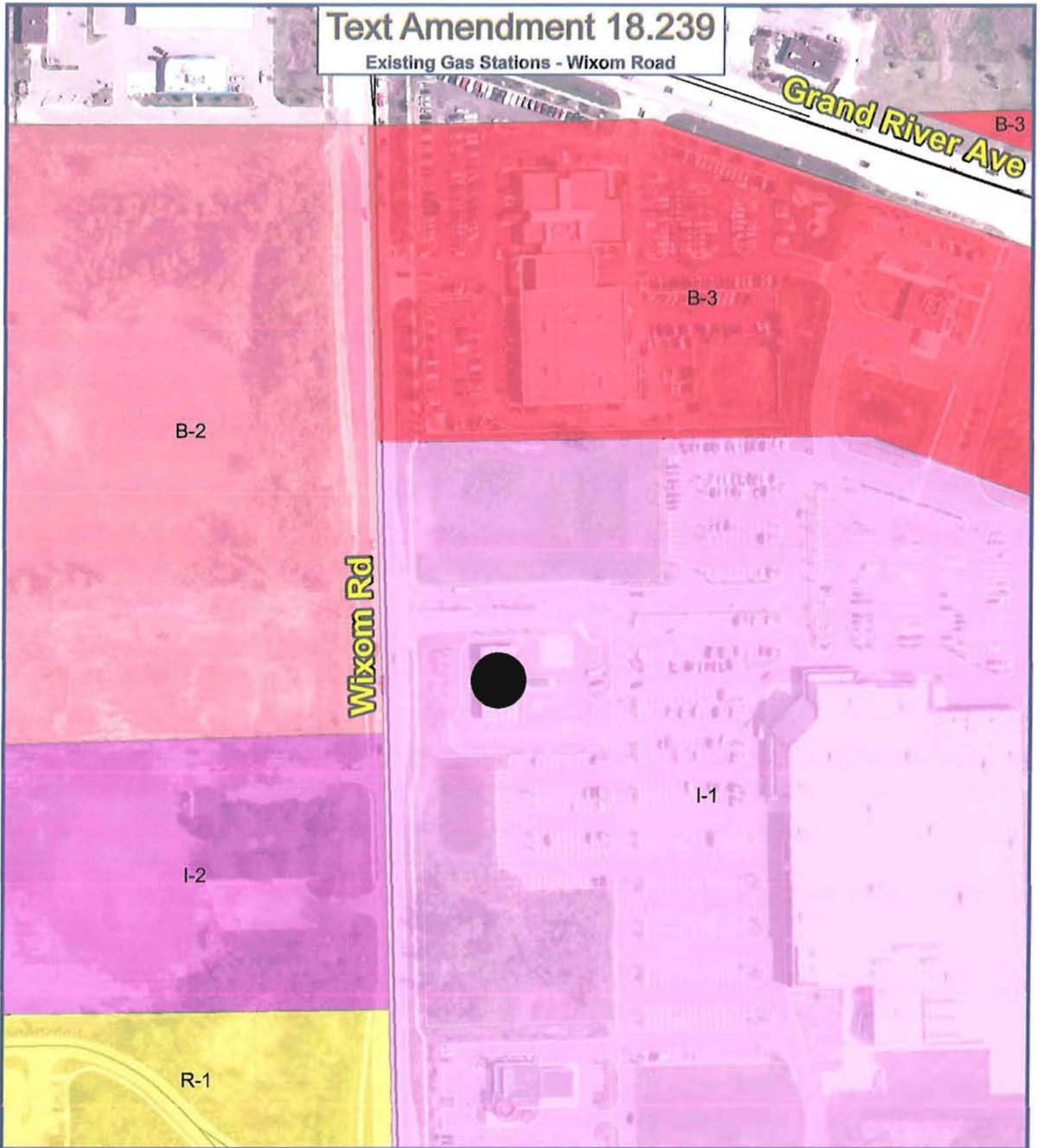
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1 inch = 161 feet

# 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

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### Map Legend

● Existing Gas Station



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1 inch = 181 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: 11/06/09  
Project: Liquor License Text Amendment  
- Map 7 Zoom  
Version #: 1.0

### Map Legend

● Existing Gas Station



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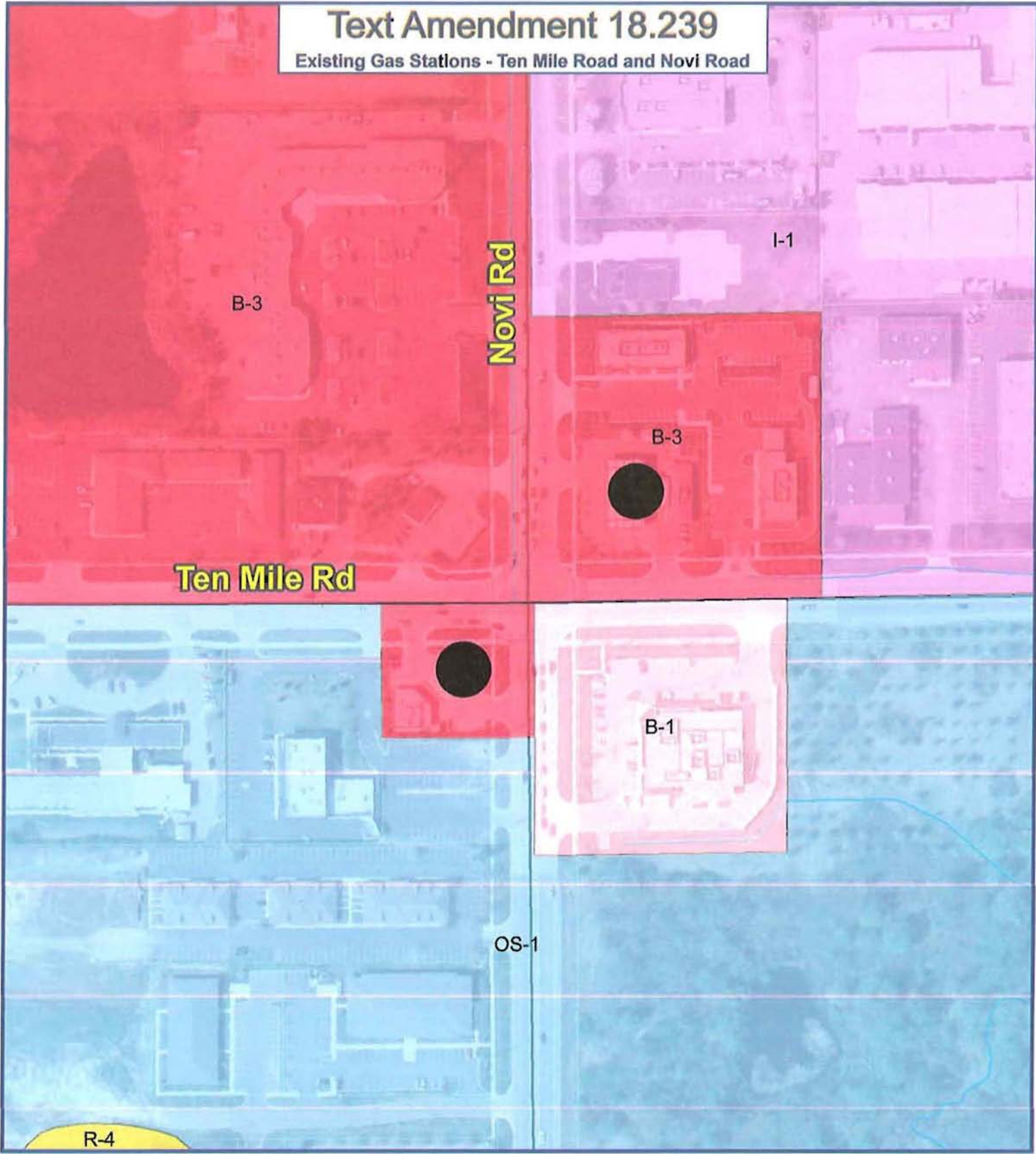


1 inch = 181 feet

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# 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

### Map Legend

Existing Gas Station

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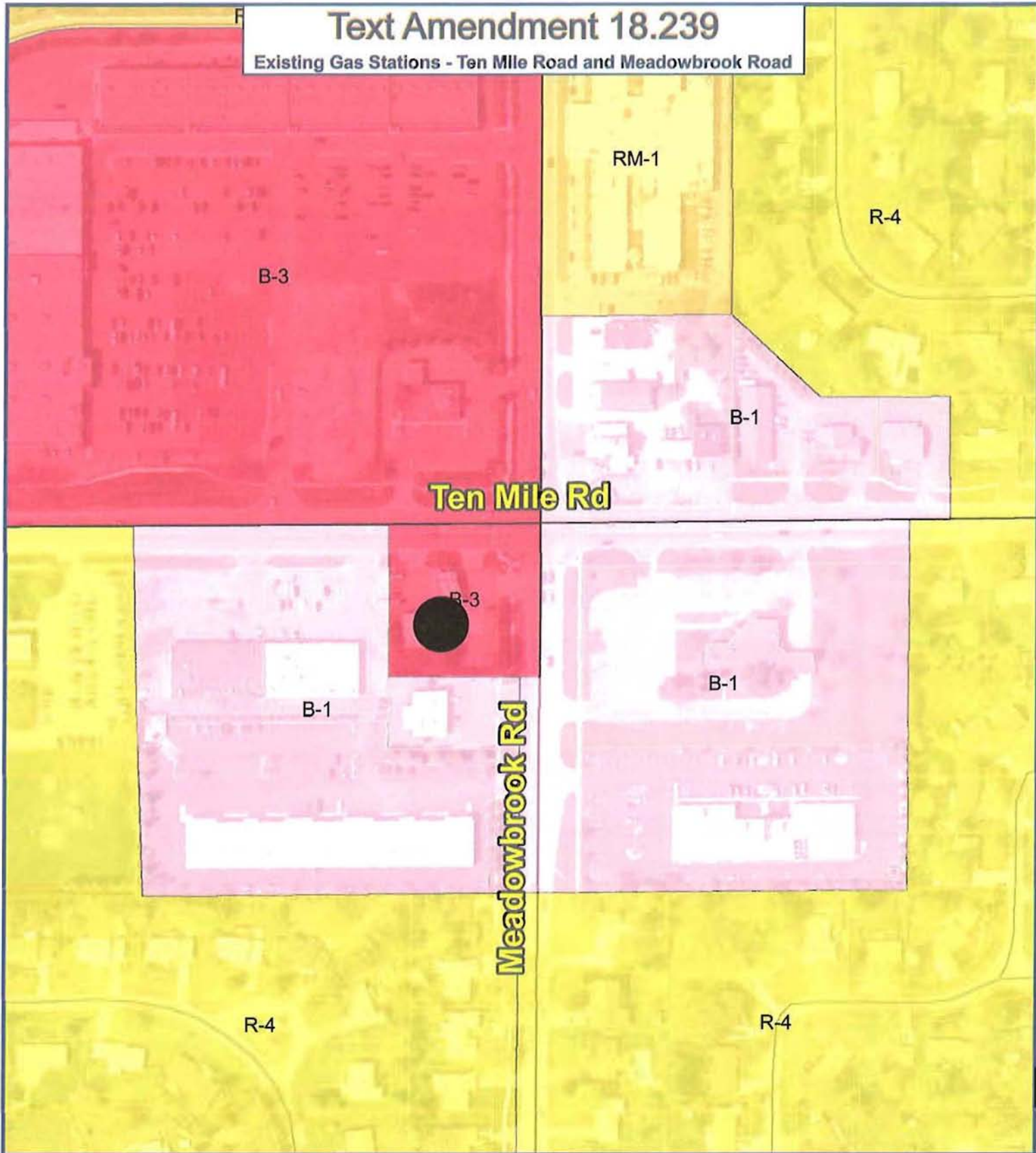


1 inch = 181 feet



# 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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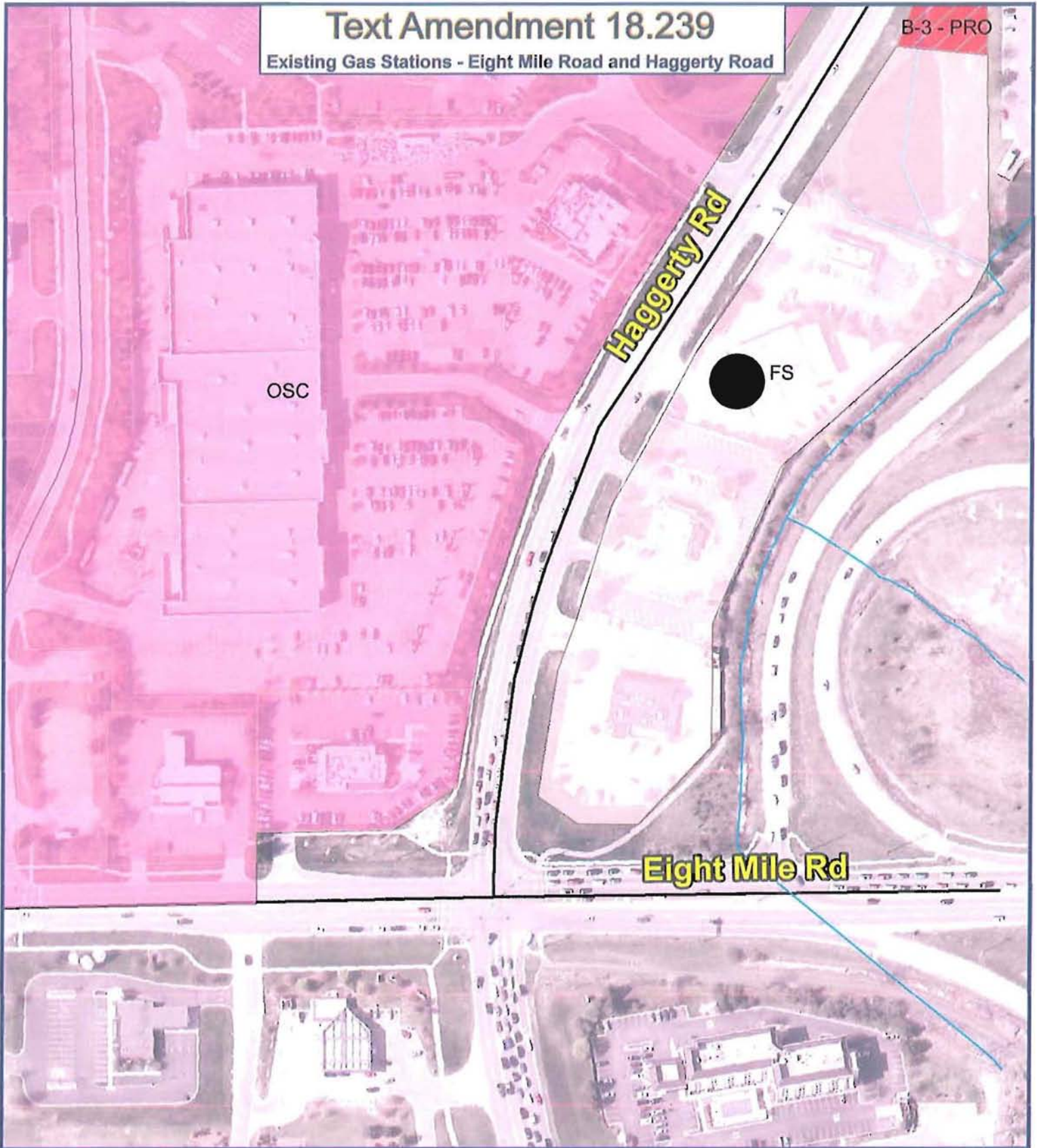


1 inch = 181 feet

# Text Amendment 18.239

Existing Gas Stations - Eight Mile Road and Haggerty Road

B-3 - PRO



Map Author: Kristen Kapelanski  
Date: 11/06/09  
Project: Liquor License Text Amendment  
- Map 10 Zoom  
Version #: 1.0

### Map Legend

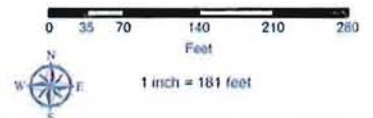
● Existing Gas Station

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## 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

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### 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: 1988, Act 58, Imd. Eff. Apr. 14, 1988; 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: 1988, Act 58, Imd. Eff. Apr. 14, 1988.

#### 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.

(i) 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.

(ii) 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.

(ii) 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: 1990, Act 68, Imd. Eff. Apr. 14, 1990.

**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.