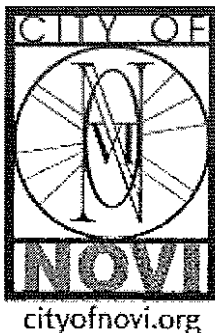


# MEMORANDUM



**TO:** MEMBERS OF THE PLANNING COMMISSION  
**FROM:** KRISTEN KAPELANSKI, PLANNER  
**THRU:** BARBARA MCBETH, COMMUNITY DEVELOPMENT  
**SUBJECT:** TEXT AMENDMENT 18.239 GAS STATION LIQUOR  
LICENSES (PLANNING COMMISSION MEETING DATE: 01/13/10)  
**DATE:** JANUARY 4, 2010

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The Planning Commission has discussed a possible text amendment to regulate liquor, beer and wine sales at gas stations at three 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 18<sup>th</sup> Planning Commission meeting.

At the November 18<sup>th</sup> 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 Use 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, seeking and securing the Planning Commission's opinion on the policy 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 January 13<sup>th</sup> to answer any questions the Commission may have.

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 hold the public hearing and make a recommendation to the City Council on this matter. Staff has prepared **three alternatives** for the Commission to consider and asks that the Commission either recommend approval of one of the three alternatives or make a recommendation for an alternate not provided by staff. All alternatives include clarification of the gas service station definition and an adjustment to the parking requirements for gas service stations. The gas service station definition would be altered in each of the amendments to clarify the types of accessory uses that would be permitted in conjunction with a gas station. All of the amendments also alter the parking requirements for gas stations to better account for any retail portion that is found in conjunction with gas service stations. The following alternative amendments have been provided:

- Alternative 1: Prohibition of Alcohol Sales at Gas Stations. This alternative prohibits the sale of all alcohol at gas service stations, clarifies the definition of a gas service station and revises parking requirements for gas service stations.
- Alternative 2: Allowance of Alcohol Sales at Gas Stations. This alternative clarifies the definition of gas service station and revises parking requirements for gas service stations but does not address the sale of alcohol at gas service stations, effectively allowing the Liquor Control Commission to regulate those sales with no prohibition or regulation by the City.
- Alternative 3: Allowance of Alcohol Sales at Gas Stations Subject to Conditions. This alternative clarifies the definition of gas service station, revises parking requirements for gas service stations and allows the sale of alcohol at gas service stations with a gross leasable area of 50,000 square feet or greater.

The Commission is asked to make a recommendation to the City Council this evening. Also attached are relevant meeting minutes from the previous Planning Commission meetings.

**ORDINANCE AMENDMENTS – STRIKE VERSION**  
**ALTERNATIVE 1**  
**PROHIBITION OF ALCOHOL SALES AT GAS STATIONS**

STATE OF MICHIGAN  
COUNTY OF OAKLAND  
CITY OF NOVI

ORDINANCE NO. 09-\_\_\_\_\_  
(Gas Station Liquor Licenses)

**AN ORDINANCE TO AMEND ORDINANCE NO. 97-18, AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE, ARTICLE 2, "CONSTRUCTION OF LANGUAGE AND DEFINITIONS, ZONING DISTRICTS AND MAP," SECTION 201, "DEFINITIONS," TO AMEND THE DEFINITION OF GASOLINE SERVICE STATION TO SPECIFY PERMITTED ACCESSORY USES WITH A PROHIBITION ON THE SALE OF ALCOHOL, WHICH HAS BEEN FOUND TO BE CONTRARY TO THE PUBLIC HEALTH, SAFETY AND WELFARE AND ARTICLE 25, "GENEALR PROVISIONS," SECTION 2505, "OFF-STREET PARKING REQUIREMENTS" TO REVISE THE PARKING REQUIREMENTS FOR SELF-SERVICE GAS STATIONS.**

**THE CITY OF NOVI ORDAINS:**

**Part I.** That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amended, Article 2, Construction of Language and Definitions, Zoning districts and Map, Section 201, Definitions, is hereby amended to amend the definitions of "Gasoline Service Station" to read as follows:

*Gasoline service station* means a place for the retail dispensing, sale, or offering for sale of motor fuels ~~directly to users of motor vehicles together with the sale of minor accessories and services fro motor vehicles, but not including major automobile repair,~~ with the only permitted accessory uses being the servicing and minor repair of motor vehicles; retail sales of minor automotive related convenience products and accessories such as windshield washer fluid, motor oil, wipers and window scrapers; and retail sales of non-automotive related products, including (i) sundries such as gum, candy, cigarettes, newspapers, magazines, and other individually packaged convenience items; (ii) basic convenience grocery items, such as milk and bread; (iii) pre-prepared food items that are not subject to licensing by the Michigan Department of Agriculture or the Oakland County Health Department; and (iv) non-alcoholic beverages only, it being the finding and public policy determination of the City that the sale of beer, wine, liquor, or other beverages containing alcohol should never be found or determined to be customarily incidental to an automobile service station for the following reasons:

- (a) Alcohol is not a product that should be conveniently available to the motoring public at a location where they purchase fuel for their vehicle. Such availability has a strong potential to encourage or facilitate alcohol related driving offenses and accidents that might not otherwise occur if a motorist in need of fuel had to make a separate stop to purchase alcohol.

(b) The nature of modern day automobile service stations and the multiple transactions employees must handle at the same time 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 and the Michigan Liquor Control Code of 1998, MCL 436.1906, does not require server training programs for off-premises licensees and their employees.

(c) Many gasoline service stations are open later than other stores where alcohol is sold, creating the ability for persons who had been consuming alcohol in an on-premises establishment to conveniently purchase alcohol after leaving that establishment, increasing the chances of alcohol related driving offenses and accidents and potentially undermining the liability of on-premises licensees for serving alcohol to minors or visibly intoxicated persons under the rebuttable presumption in MCL 436.1801(8), that licensees other than the one who made the last sale are not liable for damages caused by a minor or visibly intoxicated person they served.

(d) Allowing the sale of alcohol at automobile service stations would increase the volume of motor vehicle traffic and parking demands on properties that were not planned or designed to accommodate the increased demand, resulting in increased vehicle conflicts and accidents.

(e) Locations that sell alcohol are a separate retail use under this chapter, which the City pursuant to its zoning authority to ensure that use of land is situated in appropriate locations and relationships, reduce hazards to life and property, and to promote and protect the public health, safety and welfare, has determined should not be allowed at automobile service station locations.

**Part II.** That Article 25, General Provisions, Section 2505, Off-Street Parking Requirements is hereby amended to read as follows:

### **Article 25, General Provisions**

#### **Sec. 2505. Off-Street Parking Requirements.**

1. – 13. [unchanged]

11. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

- a. [unchanged]
- b. [unchanged]
- c. Business and Commercial

(1) – (10) [unchanged]

(11)	Gasoline filling stations (self-service)	One (1) fueling space for each fuel nozzle. In addition, one (1) space per 200 square feet usable floor area (not to include vehicle fueling spaces located at the pump) plus parking for accessory vehicle service uses <del>one (1) parking space shall be provided for each fifty (50) square feet of usable floor area in the cashier's and office areas and spaces shall be provided for all accessory uses.</del> In no instance shall such a facility provide less than three (3) parking spaces. In no instance shall a required parking space or its maneuvering area conflict with vehicles being fueled or awaiting fuel.
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**PART III.**

**Severability.** Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

**PART IV.**

**Savings Clause.** The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

**PART V.**

**Repealer.** All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**PART VI.**

**Effective Date: Publication.** Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours

of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

MADE, PASSED AND ADOPTED BY THE NOVI CITY COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

\_\_\_\_\_  
DAVID LANDRY – MAYOR

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

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

**CERTIFICATE OF ADOPTION**

I hereby certify that the foregoing is true and complete copy of the Ordinance passed at the \_\_\_\_\_ meeting of the Novi City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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

1320796

**ORDINANCE AMENDMENTS – STRIKE VERSION**  
**ALTERNATIVE 2**  
**ALLOWANCE OF ALCOHOL SALES AT GAS STATIONS**



STATE OF MICHIGAN  
COUNTY OF OAKLAND  
CITY OF NOVI

ORDINANCE NO. 09-\_\_\_\_\_  
(Gas Station Liquor Licenses)

AN ORDINANCE TO AMEND ORDINANCE NO. 97-18, AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE, ARTICLE 2, "CONSTRUCTION OF LANGUAGE AND DEFINITIONS, ZONING DISTRICTS AND MAP," SECTION 201, "DEFINITIONS," TO AMEND THE DEFINITION OF GASOLINE SERVICE STATION TO SPECIFY PERMITTED ACCESSORY USES AND ARTICLE 25, "GENERAL PROVISIONS," SECTION 2505, "OFF-STREET PARKING REQUIREMENTS" TO REVISE THE PARKING REQUIREMENTS FOR SELF-SERVICE GAS STATIONS.

**THE CITY OF NOVI ORDAINS:**

**Part I.** That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amended, Article 2, Construction of Language and Definitions, Zoning districts and Map, Section 201, Definitions, is hereby amended to amend the definitions of "Gasoline Service Station" to read as follows:

*Gasoline service station* means a place for the retail dispensing, sale, or offering for sale of motor fuels ~~directly to users of motor vehicles together with the sale of minor accessories and services fro motor vehicles, but not including major automobile repair, with the only permitted accessory uses being the servicing and minor repair of motor vehicles; retail sales of minor automotive related convenience products and accessories such as windshield washer fluid, motor oil, wipers and window scrapers; and retail sales of non-automotive related products, including (i) sundries such as gum, candy, cigarettes, newspapers, magazines, and other individually packaged convenience items; (ii) basic convenience grocery items, such as milk and bread; (iii) pre-prepared food items that are not subject to licensing by the Michigan Department of Agriculture or the Oakland County Health Department; and (iv) non-alcoholic beverages as well as liquor, beer and wine as permitted by the Michigan Liquor Control Commission for off-premises consumption.~~

**Part II.** That Article 25, General Provisions, Section 2505, Off-Street Parking Requirements is hereby amended to read as follows:

**Article 25, General Provisions**

**Sec. 2505. Off-Street Parking Requirements.**

1. – 13.        [unchanged]

11. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

- a. [unchanged]
- b. [unchanged]
- c. Business and Commercial

(1) – (10) [unchanged]

(11)	Gasoline filling stations (self-service)	One (1) fueling space for each fuel nozzle. In addition, one (1) space per 200 square feet usable floor area (not to include vehicle fueling spaces located at the pump) plus parking for accessory vehicle service uses <del>one (1) parking space shall be provided for each fifty (50) square feet of usable floor area in the cashier's and office areas and spaces shall be provided for all accessory uses.</del> In no instance shall such a facility provide less than three (3) parking spaces. In no instance shall a required parking space or its maneuvering area conflict with vehicles being fueled or awaiting fuel.
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**PART III.**

**Severability.** Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

**PART IV.**

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**PART V.**

**Repealer.** All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**PART VI.**

**Effective Date: Publication.** Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

MADE, PASSED AND ADOPTED BY THE NOVI CITY COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

\_\_\_\_\_  
DAVID LANDRY – MAYOR

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

- 1. Date of Public Hearing \_\_\_\_\_
- 2. Date of Adoption \_\_\_\_\_
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Notice of Adoption \_\_\_\_\_

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

**ORDINANCE AMENDMENTS – STRIKE VERSION**  
**ALTERNATIVE 3**  
**ALLOWANCE OF ALCOHOL SALES AT GAS STATIONS SUBJECT TO  
CONDITIONS**

STATE OF MICHIGAN  
COUNTY OF OAKLAND  
CITY OF NOVI

ORDINANCE NO. 09-\_\_\_\_\_  
(Gas Station Liquor Licenses)

**AN ORDINANCE TO AMEND ORDINANCE NO. 97-18, AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE, ARTICLE 2, "CONSTRUCTION OF LANGUAGE AND DEFINITIONS, ZONING DISTRICTS AND MAP," SECTION 201, "DEFINITIONS," TO AMEND THE DEFINITION OF GASOLINE SERVICE STATION TO SPECIFY PERMITTED ACCESSORY USES WITH CONDITIONAL ALLOWANCE OF THE SALE OF ALCOHOL AND ARTICLE 25, "GENEARL PROVISIONS," SECTION 2505, "OFF-STREET PARKING REQUIREMENTS" TO REVISE THE PARKING REQUIREMENTS FOR SELF-SERVICE GAS STATIONS.**

**THE CITY OF NOVI ORDAINS:**

**Part I.** That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amended, Article 2, Construction of Language and Definitions, Zoning districts and Map, Section 201, Definitions, is hereby amended to amend the definitions of "Gasoline Service Station" to read as follows:

*Gasoline service station* means a place for the retail dispensing, sale, or offering for sale of motor fuels ~~directly to users of motor vehicles together with the sale of minor accessories and services fro motor vehicles, but not including major automobile repair, with the only permitted accessory uses being the servicing and minor repair of motor vehicles; retail sales of minor automotive related convenience products and accessories such as windshield washer fluid, motor oil, wipers and window scrapers; and retail sales of non-automotive related products, including~~ directly to users of motor vehicles together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair, with the only permitted accessory uses being the servicing and minor repair of motor vehicles; retail sales of minor automotive related convenience products and accessories such as windshield washer fluid, motor oil, wipers and window scrapers; and retail sales of non-automotive related products, including (i) sundries such as gum, candy, cigarettes, newspapers, magazines, and other individually packaged convenience items; (ii) basic convenience grocery items, such as milk and bread; (iii) pre-prepared food items that are not subject to licensing by the Michigan Department of Agriculture or the Oakland County Health Department; and (iv) non-alcoholic beverages. The sale of alcoholic beverages shall be permitted subject to all of the Liquor Control Commission's standards and the following shall be demonstrated on the site plan:

- (a) The sale of alcoholic beverages shall be permitted as an accessory use, subject to the approval of the Liquor Control Commission and the standards imposed by the Commission and state law, only where the gasoline service station is located in a neighborhood shopping center composed of one or more commercial establishments organized and operated as a unit, which provides not less than 50,000 square feet of gross leasable retail space.

**Part II.** That Article 25, General Provisions, Section 2505, Off-Street Parking Requirements is hereby amended to read as follows:

**Article 25, General Provisions**

**Sec. 2505. Off-Street Parking Requirements.**

- 1. – 13. [unchanged]
- 11. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:
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  - b. [unchanged]
  - c. Business and Commercial

(1) – (10) [unchanged]

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**PART III.**

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**Savings Clause.** The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

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**Repealer.** All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**PART VI.**

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MADE, PASSED AND ADOPTED BY THE NOVI CITY COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

\_\_\_\_\_  
DAVID LANDRY – MAYOR

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

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

**CERTIFICATE OF ADOPTION**

I hereby certify that the foregoing is true and complete copy of the Ordinance passed at the \_\_\_\_\_ meeting of the Novi City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

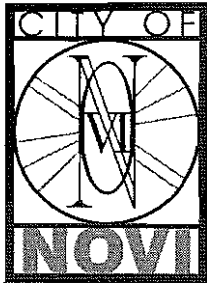
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MARYANNE CORNELIUS – CITY CLERK

1320796



**PLANNING COMMISSION MINUTES EXCERPT  
DECEMBER 9, 2009**



cityofnovi.org

# PLANNING COMMISSION MINUTES

Draft Copy

CITY OF NOVI

Regular Meeting

**Wednesday, December 9, 2009 | 7 PM**

Council Chambers | Novi Civic Center | 45175 W. Ten Mile

(248) 347-0475

## CALL TO ORDER

The meeting was called to order at or about 7:00 PM.

## ROLL CALL

**Present:** Member Baratta, Member Cassis, Member Greco, Member Gutman, Chair Pehrson, Member Prince, Member Lynch, Member Meyer

**Absent:** Member Larson (excused)

**Also Present:** Barbara McBeth, Deputy Director of Community Development; Kristen Kapelanski, Planner; Mark Spencer, Planner; Lindon Ivezaj, City Engineer; Tom Schultz, City Attorney; Tom Lindberg, Deputy Police Chief; Rod Arroyo, City Traffic Consultant

## PLEDGE OF ALLEGIANCE

Member Cassis led the meeting attendees in the recitation of the Pledge of Allegiance.

## APPROVAL OF AGENDA

**A motion to approve the December 9, 2009 Agenda with addition of the Landings Land Use Study.**

**Motion carried 8-0.**

## MATTERS FOR CONSIDERATION

### 1. SET A PUBLIC HEARING FOR JANUARY 13, 2010 FOR ZONING ORDINANCE TEXT AMENDMENT 18.239 RELATED TO SALES OF LIQUOR AT GAS STATIONS

Planner Kapelanski stated that at previous meetings, the Planning Commission was presented with an amendment to prohibit the sale of alcoholic beverages at gas stations. The Planning Commission considered the amendment and asked staff for additional information which was presented at a subsequent meeting. Additional information has also been included in the packets this evening.

As of late, this issue is coming up more often, and even today staff had a gas station call and ask if the city had any regulations related to alcohol sales. We have also had one pre-application plan submitted that showed a substantial amount of area within the proposed gas station, devoted to the sale of beer, wine and liquor.

Staff believes that this would be a good time, if the Commission wishes, to consider whether it would be appropriate to have an ordinance in place when a formal submittal is made, and to provide guidance if staff receives any additional questions about this use.

This evening the Planning Commission is asked to set a Public Hearing for the upcoming Planning Commission meeting and make a recommendation to staff regarding possible ordinance language for the sale of liquor at gas stations. The Planning Commission would have several options: 1. Total prohibition of sales as previously presented; 2. Leave the Ordinance as it is, allowing gas stations to obtain liquor licenses from the State; 3. To develop standards that would fall somewhere in between the two, for example; allowing liquor sales at gas station stores of a minimum size.

The Staff would like a recommendation on this land use question so that we have an answer to applicants when they come forward and ask whether these sales can be permitted.

Also, at a previous Planning Commission meeting, the Commission indicated a desire to hear from the Police Department on this issue and we have Deputy Chief Lindberg here to answer any questions you may have as well as the staff.

Member Cassis asked Deputy Chief Lindberg if he was in a position to have an opinion or does the Department have an opinion about whether we should have liquor in gas stations.

Deputy Chief Lindberg answered that in previously-sent communications from the Police Department we do not recommend that gas stations be allowed to sell liquor.

Member Cassis asked what the reasons for this were, so we can educate the public on what the position is.

Deputy Chief Lindberg stated that, starting more globally, Oakland County, Michigan has the lowest traffic fatality rate in not only the country, but the world at .37 fatalities per hundred million miles driven. That does not happen by accident, but through a collaborative effort from Law Enforcement, Engineering, Traffic Improvement Associations and a whole multitude of things that have gotten us to that number. One of the those things that has been done, and is noted in an article that was provided for you and written by Louisiana State University, and one of the reasons jurisdictions or states have a lower traffic fatality rate is because they do monitor the liquor establishments within their jurisdictions. Having more liquor establishments or places that sell alcohol in our city creates more opportunities for people to purchase alcohol and the police department does have some resources that we have to expend on that. We do quarterly liquor inspections where an officer goes in and makes sure the license is in order and looks and makes sure everything is in order. The Police Department does a decoy operation where we expend resources where we take people who are under 21 into the establishments to see if they are complying, etc.

Deputy Chief Lindberg stated that we are not advocating that we reduce the number of liquor licenses because we know the economic impact that those have. However, we also want to make sure our voices are heard and that we are being responsible. You can read in the communications that have been provided for you, there are certain concerns associated with the sale of alcohol at gas stations. If an individual is there to purchase gas, we know what marketing strategies are and how many times have we gone into a store and bought something that we hadn't anticipated. All of those things come into play and the Police Department does not think it is a good idea for alcohol sales to occur at gas stations.

Member Cassis stated that he was intrigued with the idea that if we allow so many gas stations in the community, we would probably have to have more personnel resources in the Police Department to monitor and exercise all of those preventive actions that you do by inspections and so on. So that multiplies the amount of time the department goes out there and provides personnel to do that job.

Deputy Chief Lindberg answered, absolutely, we do quarterly open liquor inspections and an officer or officers go in the store in uniform and with a checklist to make sure everything is in order. Last quarter we checked 92 establishments in our city. So that is an officer that could be out in the community or in the subdivisions doing patrol and that is a resource we are expending to do the inspections. If there is a violation, there is a subsequent hearing that could go at the LCC where the officer is there and not on patrol. The decoy operation is where people are out and our officers are out for an entire night. Fortunately we have some grant monies for the decoy operation right now. That is not always the case and we will spend our dollars to do the decoy operations and if there is a violation it could be 30 minutes to an hour for processing and then again another hearing at the Liquor Control Commission. We are expending a lot more resources now that the city has more establishments that sell alcohol. The more licenses, the more resources we expend to watch those.

Member Prince asked Chief Deputy Lindberg how many gas stations would you anticipate would make applications to obtain these licenses were we to approve an ordinance that would allow it.

Deputy Chief Lindberg said he could not answer that but because of the regulations that are currently with the Liquor Control Commission, they have to have \$250,000 worth of inventory outside of gasoline and alcohol and there are certain proximities that are required related to the distance between the point of sale and gas pumps. Deputy Chief Lindberg thinks there are a number of gas stations that would apply. We found in some surrounding communities that have permitted the sale of alcohol at gas stations that a fair amount of stations do apply and the truth of the matter is that the LCC doesn't necessarily have all the resources to police it on their end. The police officer doesn't necessarily have the knowledge to go in and do an inventory of a gas station to make sure there is a quarter of a million dollars worth of inventory out there. We would not want that resource being expended to check that. Does the LCC have the ability to do that consistently? From what Deputy Chief Lindberg is hearing, probably not. Deputy Chief Lindberg

thinks some additional people in our city currently operating gas stations would go before the LCC trying to get a liquor license due to the economic times. In the package that Deputy Director McBeth supplied you there is a map showing where the gas stations are and there is a possibility that there could be a dramatic increase in the number of gas stations selling alcohol.

Member Meyer asked what your thoughts were on a matter that was before Master Plan and Zoning Committee. It was brought to our attention that one of the developers felt that the establishment of the gas pumps was simply an ancillary piece to the building that would be selling the liquor. Member Meyer asked what are your thoughts about whether selling gasoline would actually be secondary to the actual selling of liquor.

Deputy Chief Lindberg thought there was some validity to that as found in doing research to come here tonight as well as the going over the information that was supplied to me from Planning. The overhead profit from gasoline right now is relatively low which is why this has become a topic not only in our community of Novi but surrounding communities as well. You might find a business owner that has found the profit margin is much greater selling the alcohol than it is selling gasoline. But the sale of gasoline is the business that the owners are familiar with and know. That might raise the question in all of your heads that if the owners know how to operate a gas station and train employees for gasoline sales, how much training is there going to be for an employee that is selling alcohol? Deputy Chief Lindberg thinks there is validity to the statement that there is a higher profit margin in our community for the sale of alcohol than the sale of gasoline.

Member Meyer thanked Deputy Chief Lindberg for attending this evening and representing the police force here and for his service to our community.

Member Lynch thanked Deputy Chief Lindberg for attending and for answering a lot of questions and concerns. Member Lynch wondered if people have a problem buying liquor right now in Novi. Member Lynch stated that we want all of our businesses to be profitable and there is not a problem selling coffee, donuts and things like that. One of the developers was Tim Horton's which is the nicest gas station in America and is supposed to be coming to Novi. Member Lynch stated that he still thinks that this decision is a policy decision that certainly is above the Planning Commission and should be made by City Council. Member Lynch stated that he is still uncomfortable with the Planning Commission making what he feels is a policy decision. We then have Deputy Chief Lindberg come in and say it is a bad thing and I am not going to go against that. Member Lynch still thinks this is a policy decision and is uncomfortable with rendering any other judgment. Member Lynch does not understand why this is being brought to Planning Commission.

Member Baratta asked Deputy Chief Lindberg let's assume there is not a lot of profit in gas and that if I had a gas station and ceased selling gas and opened up a liquor store, the availability of alcohol would seem to expand and you would have more establishments to sell that product. Member Baratta agrees with Member Lynch, and asks if you have a gas station, and just because they sell gas, what is the problem with selling alcohol. Member Baratta does not see how it increases the sale of that product just because it is a gas station versus a restaurant or some other facility.

Deputy Chief Lindberg stated that you are asking for my personal opinion and that may be tainted by some personal bias and I appreciate that, but please take it for what it is worth. Deputy Chief Lindberg would have some concerns in that there is some real expertise in training to sell alcohol. If you were to go into a gas station, there is certain expertise to having that customer service. Deputy Chief Lindberg thinks you also find there is turnover in gas stations with employment. Whereas, a lot of the convenience stores have more consistent employment because many of them are family-owned, outside of the franchise. Your next question might be that Busch's or another grocery store sells alcohol and those cashiers are trained to scan the food products and are they really trained in the sale of alcohol and that is an absolute concern. But, this is a new area, a new venue for us to consider and that is something I feel relatively strong about and we need to make sure that the people that are selling the product are trained to sell that product. If the focus of that is to be a gas station, that is their area of expertise, just like Member Lynch said a minute ago and that is a very significant concern that I have. Every argument you have about I can't get alcohol here, but I can just drive down the street. But again, how often do you walk into a place because you are there with the intent on buying something and you see whatever they are displaying and you end up buying it. That is another thing you might think about when you walk into a gas station that sells alcohol.

Member Baratta said let's assume I have lived in Texas for many years and own a market. Gas stations down there have more than just markets. They all sell gas and have restaurants adjacent to them. Member Baratta said he is

looking at it as you have a gas station and traditionally all you sold there is gas and today you have the mini-market that has a gas pump and in some instances they don't even own the gas, they get a fee from the oil company to sell the gas and they get a commission. So truly what they are is a market that happens to sell gas. So, I am trying to basically find out, because I have a gas pump if I own this market, would this increase the sale or availability of alcohol to a driver.

Deputy Chief Lindberg said that he wished he could come to you with data to support that and be able to tell you an answer to that. But, the truth of the matter is, with the hours of research that he has done, and some of the people on Chief Malloy's staff have done, including research that planning has done; there is not a lot of data that separates what you have described from a gas station and the alcohol sales. It is more of a common sense approach we take, just like you have to do here. This is really a land use issue and you are asking for some statistical justification or some input from me. Deputy Chief Lindberg said that he can't answer that just because they sell gas that would increase the sales of alcohol, but he believes that is the truth. He believes there is going to be the instance where an individual is driving by and needs gas and ends up buying alcohol and has an issue as a result of it. Deputy Chief Lindberg refers the Commission back to the Louisiana State University Study that was supplied. ; States that have the lowest traffic fatality rate related to drinking and driving do a much better job at regulating liquor sales within their communities. One of the things that they cite in that study is the drive-thru sale of alcohol and the states that allow that have a higher traffic fatality rate relating to alcohol. States that have less regulations on their establishments have a higher traffic fatality rate, though it doesn't specifically say it in this study. It is common sense. The next step is those that sell alcohol in gas stations and allow those vehicles to get on the road, would probably fall into the same category. And again sir, I apologize, but the data just isn't there where they separate it out and indicate where the alcohol was bought. We do a good job when there is an alcohol-related traffic fatality of tracing back and looking to see if it is a bar or somewhere somebody has been drinking, under the Dramshop Rules; that is something our traffic investigators do. But typically, it is very difficult if the driver has not been at a bar or restaurant to trace back where they bought packaged liquor, beer etc. This is standard procedure across the country.

Member Baratta asked if there is a fee charged for this inspection for an officer to go into a liquor store.

Deputy Chief Lindberg said that there was no fee for the inspections. Without being an expert in that area, there are regulations and financial consequences and incentives where we are required to police the liquor licenses in our city, but there are some financial returns as result of that. If we do not police those establishments and then there is a problem, we can suffer some financial losses. We are not compensated at all for doing inspections; it is part of our process.

Member Greco stated that we have had this issue before us at two meetings and thinks the issue of a gas station selling alcohol initially seems like something that should not go together. When you look at it from a quick look, something to turn away and say we don't want that. But at the last two meetings where this was discussed, Member Greco has been hearing comments from the Planning Commission that we want more data before we make this decision, especially since it is not a decision that every community is making. Member Greco's understanding is that Farmington Hills has chosen not to regulate alcohol sales at gas stations. West Bloomfield did pass an ordinance. I do appreciate both the staff and the deputy chief coming here, because the information that was provided in the packet this week is something we were looking for. Member Greco is not going to make a decision tonight on whether he supports or don't support it, but there probably is something there worth having a public hearing on.. One concern is blanket statements, and one of the things the deputy chief keeps bringing up is data and lack of data. Member Greco thinks everyone's experience both outside and inside of Novi is that we have an outstanding police force that does a great job of enforcing the laws, particularly the drunk driving laws. Member Greco is sure that the department has particular hotspots or areas where they are more likely to find a drunk driver. The middle of a subdivision of might be an area where you would not catch a lot of drunk drivers whereas maybe by the Town Center area or the Main Street area would be more likely locations where they could be caught. Member Greco believes the police have an idea where the problems may occur. Member Greco wondered whether we have any data regarding this Sunshine gas station, whether it is drunk driving or open-container pullovers or arrests. Is there anything you are getting back from your officers about this particular area being a problem.

Deputy Chief Lindberg answered, no. But understand this, the market is very new and the owners were very accommodating when they were opening up and adhered to the entire ordinance. Deputy Chief Lindberg said he previously made a statement that it is very difficult to track where packaged liquor, beer, and wine are purchased when there is an accident or driving issue. Deputy Chief Lindberg is not aware of any runs or police complaints of

teens hanging out or other concerns. Our officers in the district are aware of the market and have established a relationship with the ownership. But, there are no concerns at this point with the land use of Sunshine Market and activities that are going on there.

Member Greco asked whether increased tickets along Novi Rd. have been issued for open containers or anything like that.

Deputy Chief Lindberg answered no to Member Greco.

Member Greco said that his only comments would be for the Commissioners. The information provided does satisfy him as at least something the Commission should consider. Member Greco is not sure where he will fall on that consideration. But, Member Greco still does want to be careful with respect to this situation. Member Greco recalls when he first moved to the community and there was a big uproar with a Hooters coming into Novi and how awful that would be, and the outfits that they wear, and it is a place where people would not want to go, and it would bring the wrong element. And, as far as my understanding goes, Hooters now seems to be a good business and corporate citizen for the city. Member Greco doesn't know if we are looking for a problem that doesn't exist; but thinks that, given the data and given the presentation tonight, he is probably going to support moving for a public hearing.

Member Cassis stated that being in the restaurant business, the health department does have a program to educate and certify the handlers of food. Member Cassis asked if there is something like that to educate people on the sale of alcohol?

Deputy Chief Lindberg stated that the Police Department does not in itself, but facilitates a lot of that training with the Liquor Control Commission. In years past, the Police Department has had Town Hall meetings where we have gotten management from a number of different liquor establishments together and one of our officers has been the facilitator of that. If a certain establishment has been issued a violation, the first thing we recommend to them is get the tips training from the LCC. Not only is it available for them in person, but it is also online and it helps build the training that they are trying to get their personnel, so they do not have the same problem again. The Novi Police Department does not have its own program; but as good partners, we will make everything available and tell the different establishments that this is available and we are there to help. If this ordinance gets approval, we will do the same thing with every establishment that comes into town. Having our own program, no; but facilitating and helping people find the programs out there yes, absolutely.

Chair Pehrson said that he was going to add his thoughts to the discussion. He doesn't think we are rationally aiming to make Novi or Oakland County a dry county. But, as a point of reference relative to training, Member Pehrson does have a relative who is employed by one of the larger petroleum based outlets based down in Texas. They actually have to go through a corporate mandate where their employees go through a week's worth of training to try to spot, identify, and make public anyone that comes on the premises that might have been drinking, that might be drunk or that might have the appearance of drinking, to the point where they suspend sales at 11:59PM on any given night. If the tape register shows that any liquor was sold at 11:59:01, they are subject to a \$100,000 fine and 3 years in jail. So they put the onus on the store operators to self-police their own. That said, Member Pehrson thinks what we are looking to do is take away the possibility. What the petroleum based outlets in Texas have found in research that this individual was able to provide me is that for every trip that is now being made to these stores in Texas, just as a point of reference, for every 1 trip for gasoline, there are 3 other trips made to the facility just for alcohol. The stores have become a mini-mart. Whether that turns into something where Deputy Chief has to have his guys find drivers on Novi Road with an open container or that leads to something, Member Pehrson thinks that will be very hard for them, as the Deputy Chief has indicated, to find out about. But, there is a trend in at least that little bit of demographic data that says this is becoming more of a real convenience for those that want that. How far do we want to go relative to legislating or allowing alcohol sales at gas stations to take place. Member Pehrson thinks it is good that we are having the debate and good that we are setting this as a public hearing. Member Pehrson thanked the Deputy Chief for coming in and for his letter as well; it was quite good.

City Attorney Schultz stated that the question before the Planning Commission is really kind of narrow. Right now the principle use for a gas station is for the dispensing of fuel, a market and all the things that go along with it are considered accessory uses. The question that you are really going to be deciding if you continue on with this is, is the sale of alcohol along with all those other sundry things customarily incidental to the fuel dispensing, or should it be. It is not just a policy question of the sale of alcohol at gas stations; it is a land use question. Is this sale of alcohol at gas

stations incidental to the dispensing of fuel, and should it be? As you're going through the information that is really the question you are after.

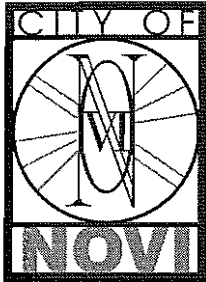
Moved by Member Meyer, seconded by Member Prince:

**ROLL CALL VOTE TO SET A PUBLIC HEARING FOR ZONING ORDINANCE TEXT AMENDMENT 18.239 RELATED TO THE SALE OF LIQUOR AT GAS STATIONS FOR THE PLANNING COMMISSION MEETING TO BE HELD ON JANUARY 13, 2010.**

**In the matter of Text Amendment 18.239, a motion to set a public hearing for January 13<sup>th</sup>, 2010.  
*Motion carried 8-0.***

**PLANNING COMMISSION MINUTES EXCERPT  
NOVEMBER 18, 2009**





cityofnovi.org

# PLANNING COMMISSION MINUTES

Draft Copy

CITY OF NOVI

Regular Meeting

**Wednesday, November 18, 2009 | 7 PM**

Council Chambers | Novi Civic Center | 45175 W. Ten Mile

(248) 347-0475

## CALL TO ORDER

The meeting was called to order at 7:00 PM.

## ROLL CALL

**Present:** Members David Baratta, David Greco, Brian Larson, Michael Lynch, Michael Meyer

**Absent:** Members Victor Cassis (excused), Andy Gutman (excused), Mark Pehrson (excused), Leland Prince (excused)

**Also Present:** Barbara McBeth, Deputy Director of Community Development; Kristen Kapelanski, Planner; Jana Pritchard, Planner; Lindon Ivezaj, City Engineer; David Beschke, City Landscape Architect; Doug Necci, Façade Consultant; Kristin Kolb, City Attorney

## PLEDGE OF ALLEGIANCE

Member Meyer led the meeting attendees in the recitation of the Pledge of Allegiance.

## APPROVAL OF AGENDA

Moved by Member Lynch, seconded by Member Baratta.

### VOICE VOTE ON THE AGENDA APPROVAL MOTION:

**Motion to approve the November 18, 2009 Planning Commission Agenda. Motion carried 5-0.**

### 1. ZONING ORDINANCE TEXT AMENDMENT 18.239

Discussion of possible ordinance amendment related to sales of liquor, beer and wine at gas stations.

Planner Kapelanski stated that at the previous meeting, the Planning Commission was presented with an amendment to prohibit the sale of alcoholic beverages at gas stations. At that meeting, the Planning Commission asked the staff to prepare additional information concerning the sale of beer, wine and liquor at area gas stations. In the packets are a number of maps highlighting the locations of existing gas stations, and the districts that permit gas stations.

You will also find a memo from the staff describing the ordinances enacted by other communities to regulate alcohol sales at gas stations and options for Novi for the Planning Commission to consider. Three options are presented in that memo. 1) Complete prohibition of the sale of alcoholic beverages at gas stations, which would be similar to the amendment that was previously presented at the Planning Commission meeting; 2) To choose to make no changes to the ordinance allowing gas stations to sell beer, wine, and liquor if they meet the state requirements, which are a minimum building size of 50,000 square feet, or \$250,000 worth of merchandise (excluding gas and alcohol sales). This would leave the review and enforcement of these provisions up to the State. 3) To permit limited sales of alcohol based on certain standards. For example, the State standards related to the minimum size of the building or the minimum amount of merchandise. This third option could be complicated as it would require a more specific definition of intent than what was previously laid out in this adjusted amendment. This evening, the Planning Commission is asked to provide their comments on a possible amendment and make a motion on how they would like to proceed at this time.

Chair Greco turned this over to the Planning Commission for any comments or discussion regarding this issue.

Member Lynch felt that this was a policy issue that Council should make the decision on.

Deputy Director McBeth responded by saying that the Planning Commission is an advisory body to the City Council on many type of land use issues. Staff looked at this as a land use issue and possible zoning ordinance amendment. The Planning Commission is responsible for using the Zoning Ordinance to review and approve various plans that come forward. It seemed to make sense to bring it to the Planning Commission for discussion since public hearings take place at Planning Commission as well. Planning Commission is asked to gather the public comments and uses and consideration deliberation.

Member Baratta questioned if the purpose of prohibiting gas stations from selling alcohol is to limit the availability or is it to limit the convenience to get alcohol, and if so, that is something different. Member Baratta does not think we are

limiting the convenience by allowing a gas station with \$250,000 worth of merchandise, particularly since most drug stores are convenient and they have liquor, alcohol, and beer and wine licenses. Member Baratta does not think we are stopping the convenience issue by preventing gas stations from getting this particular type of product. Again, if it is restricting the availability and wanting a more exclusive policy and it's to be applied throughout the city, which is a different story. Member Baratta stated that with the information that was provided, he did not have an issue if gas stations had this particular product as part of their sales.

Member Meyer questioned why this is before us, and could it be further clarified. Based on the information we have, if we do recommend this to City Council, could we ask that any gas stations wishing to sell alcohol appear before a Liquor Advisory Committee to determine if it meets the state standards for a liquor license. Also, is the Liquor Advisory Committee at the State level or a committee that would be part of our local government?

Deputy Director McBeth stated that she and her staff did look at a number of area ordinances. Some area ordinances have an outright prohibition of sale of alcohol, while others had no ordinance that prohibits it, so therefore allow alcohol sales at gas stations with no further restrictions. Troy took a unique approach and set up a Liquor Advisory Committee to review the requests, so another level of review, similar to Planning Commission Sub-Committee, was Troy's solution to this question.

Member Meyer stated that he was not sure we are ready to give a recommendation to the City Council this evening. If we would give this recommendation to City Council, we could do it with the possibility of creating a Liquor Advisory Committee of the Planning Commission.

Member Larson questioned how many gas stations in Novi met the criteria of being 50,000 square feet, or \$250,000 of merchandise.

Planner Kapelanski stated that we have 12 gas stations. The only one that has received this type of license in the city is the Sunshine Market. We have an existing gas station at Sam's Club that could meet that standard. But, beyond that, she is not aware of any other gas station that has applied for this license, so we do not know if any others would meet the \$250,000 merchandise standard. Staff could do additional research to see how many would meet the size requirement, but, beyond the Sam's Club and the Sunshine Market, we are not aware of any.

Member Baratta questioned if Sam's Club met the requirement and is it because of what is inside of Sam's Club itself.

City Attorney Kolb stated that the communities that have put outright bans on it, or are in the process of doing that, are doing so because the Liquor Control Commission that oversees us at the State level has indicated that they just do not have adequate staff to oversee the requests. The State is doing the review on an honor system and if someone calls and says they have \$250,000 worth of merchandise, the State is approving it. The communities that are pursuing this are concerned that liquor licenses are not being regulated in the way they should be. The Liquor Control Commission is taking people at their word, rather than investigating to see that they meet the statutory criteria.

Chair Greco said his concern was that he still hasn't seen a compelling reason why we should get involved in this. It is being regulated at the State level, even though it might not be adequately regulated. This is government regulation and would be prohibiting something that is currently allowed. Before we start impacting Sam's Club, and the Sunshine Market or impacting any future businesses coming into the city, he wants to know why we would consider this. The questions that were asked by Member Baratta are right on point; is there a reason why we should be doing this. If you have more than one or two gas stations that sell alcohol in the city, are crashes up or drunk driving incidents up. Is it more dangerous for the community. Those are the answers we are looking for. At our last meeting this is what Member Pehrson and I were questioning. Do we have data to support this, and will it be helpful to the community? Any state agency, as well as any other government agency that is understaffed might not be doing everything they should be doing. At this point in time, Chair Greco does not see a compelling reason why we should get involved in regulating this, whether it is straight out prohibition or creating a local liquor commission to review gas station requests. Chair Greco thinks we are trying to address a perceived problem - drinking and driving. Chair Greco is not recommending going forward with this at this time until we receive additional information that would make sense and benefit the community.

Deputy Director McBeth stated that there is a letter from our Police Department in the packets. The Police Department has listed a number of reasons for its recommendations. However, they did not have specific statistics or other things Chair Greco mentioned.

Chair Greco stated that the main reason is drinking and driving and that he did not see any compelling data as to why we would get involved in this.

Member Lynch stated that in his opinion, it might be foolish to pursue this and agreed with Chair Greco and thinks this is something above us. It seems more of a policy, and Member Lynch cannot speak for what the citizens want. City Council would have a better idea on what the need is and what benefit it is to the city. At this point, we just have speculation and a letter from Police Chief Malloy which is saying that it would not be a very good idea. Member Lynch thinks we need to step back and understand why we are even doing this and if there is an overwhelming benefit to the city.

Deputy Director McBeth stated that it sounds like the Planning Commission may not be ready to set a Public Hearing, but if Planning Commission chose to, it might be an opportunity to get some additional input on the topic. We could let the issue stand, and forward the Commission's thoughts on this to the City Council in an alternate method. Or, the Planning Commission could ask to set the Public Hearing at the next available date, collect public input, and the Planning Commission could vote on their recommendation to City Council.

Chair Greco asked if anyone had any ideas on what they want to propose.

**Moved by Member Meyer, seconded by Member Larson:**

**In the matter of text amendment 18.239, motion to set a public hearing for an upcoming Planning Commission meeting.**

Member Baratta stated that before they set a public hearing, he would like the data from the Police Chief to see what the incidents are. If you read the Police Chief's letter, article one says that alcohol is a product that should not be conveniently available, and he does not say it is, or it isn't with this type of facility. The Police Chief does say that the ease of access to alcohol could increase, and he is not specifically saying that it will. The Police Chief goes on to say that if alcohol sales at gas stations are prohibited, this may decrease the ease of access to alcohol, so he is not being definitive with whether this is a good or bad idea statistically. Member Baratta stated that he would like to see what the numbers are on the statistics with other communities that allow the sale of alcohol at gas stations, and then the Planning Commission can properly consider this proposal.

Chair Greco thanked Member Baratta, but noted that a motion and a second have been made that the Planning Commission needs to consider.

City Attorney Kolb asked for a clarification. Obviously the Planning Commission does not have a specific text amendment to consider at the public hearing. So is the point of the public hearing just to gain input from the public as to whether or not to move ahead and possibly get some direction on what the citizens would want? If that is the intent, City Attorney Kolb would like to make sure that is clear so that staff can properly notice.

Chair Greco suggested we should ask the motion maker to clarify what he is requesting.

Member Meyer stated that it appears that the public hearing would be a discussion of a possible ordinance amendment related to the sales of liquor, beer, and wine at gas stations. That would be the essence of the public hearing, discussion of a possible ordinance amendment.

Member Lynch asked if Police Chief Malloy could attend the public hearing.

Chair Greco stated that they could probably request Police Chief Malloy to be present.

Member Lynch asked if he could give comments.

Deputy Director McBeth stated that staff could request someone from the Police Department, either the Chief or the Deputy Chief if they are available to attend that evening. If the Planning Commission would prefer, planning staff could ask for additional information from the Police Department prior to the public hearing.

Member Lynch stated that he would prefer to ask questions of the experts rather than get a letter. With the respect to the motion, Member Lynch cannot support a public hearing until we at least have some comment from the experts and he is going to vote against the motion because he would like to have a discussion with the experts prior to the public hearing.

Member Larson asked if there is a member from the Police Department that could bring data to support their letter

and talk about it so it could be discussed at the meeting.

Member Meyer also said he would specifically like to ask that Chief Police Malloy attend.

Chair Greco asked if there were any other comments before they took a vote and there were none.

**VOICE VOTE ON THE MOTION MOVED BY MEMBER MEYER AND SECONDED BY MEMBER LARSON:**

**In the matter of text amendment 18.239, motion to set a public hearing for an upcoming Planning Commission meeting. *Motion fails 3-2***

Member Meyer asked if he could make a new motion and could Police Chief attend a meeting of the Planning Commission so that we can discuss the text amendment with an expert.

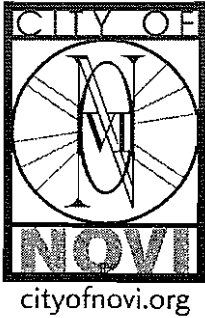
Member Baratta stated his position would be not to deal with this any longer unless it gets brought back properly with a proper zoning text amendment and the proper data for a presentation if that wants to be done. The Planning Commission does not have to set a hearing tonight and Member Baratta does not think they should do so. Member Baratta thinks the feelings of the Planning Commission have been heard at the last two meetings and if there is data to back up such an ordinance, it can be presented to the Planning Commission and we can consider it again and he does not think any of his fellow Commissioners would have a problem with that.

**Moved by Member Lynch, seconded by Member Baratta:**

**In the matter of text amendment 18.239, motion to request that the Chief of Police attend an upcoming Planning Commission meeting to discuss the sale of beer, wine and liquor at gas stations. *Motion was withdrawn.***

Member Lynch stated he would like to withdraw his previous motion and Member Baratta agreed.

**PLANNING COMMISSION MINUTES EXCERPT  
OCTOBER 28, 2009**



# PLANNING COMMISSION MINUTES

Approved

CITY OF NOVI

Regular Meeting

**Wednesday, October 28, 2009 | 7 PM**

Council Chambers | Novi Civic Center | 45175 W. Ten Mile  
(248) 347-0475

## CALL TO ORDER

The meeting was called to order at 7:00 PM.

## ROLL CALL

**Present:** Member Greco, Member Gutman (arrived at 7:03 PM.), Member Larson, Member Lynch, Member Meyer, Chair Pehrson, Member Prince

**Absent:** Member Baratta (excused), Member Cassis (excused)

**Also Present:** Barbara McBeth, Deputy Director of Community Development; Kristen Kapelanski, Planner; Jana Pritchard, Planner; Kristin Kolb, City Attorney

## PLEDGE OF ALLEGIANCE

Member Greco led the meeting attendees in the recitation of the Pledge of Allegiance.

## APPROVAL OF AGENDA

Moved by Member Lynch, seconded by Member Larson

### VOICE VOTE ON THE AGENDA APPROVAL MOTION:

**Motion to approve the September 30, 2009 Planning Commission Agenda. Motion carried 6-0.**

## MATTERS FOR CONSIDERATION

### **2. SET A PUBLIC HEARING FOR NOVEMBER 18, 2009 FOR ZONING ORDINANCE TEXT AMENDMENT 18.239 RELATED TO SALES OF LIQUOR AT GAS STATIONS**

Deputy Director McBeth stated that this item involves an important policy decision that the Planning Commission should consider carefully. It involves whether there should be any zoning ordinance standards that would regulate the sale of beer, wine and liquor at gas stations. Perhaps, rather than setting a Public Hearing tonight for a date three weeks from now, staff could gather some of the Commission's preliminary thoughts on the topic as to whether the Commission thinks the city should set local standards that would regulate the sale of liquor at gas stations or whether the Commission would suggest it doesn't need any further regulation.

Staff identified one gas station in the City of Novi that currently sells beer, wine and liquor, the Sunshine Market Station located at Thirteen Mile and Novi Road. This station received a license from the Liquor Control Commission to sell alcohol products. In the Commission's packets this evening, staff did provide some language that was suggesting just the outright prohibition of sales of those packaged alcoholic beverages at gas stations. Staff would like the Commission's thoughts on whether it's appropriate to allow the sale of alcohol at gas stations similar to other kinds of stores that allow that or if there should be certain regulations that would allow the sale at certain gas stations with certain conditions. Staff could also prepare some additional information regarding the state standards, ordinances in other local communities and opinions from the Police Chief if the Commission would like.

Chair Pehrson stated that he was surprised that this wasn't regulated by State Law.

Deputy Director McBeth stated that City Attorney Kolb could comment on this.

City Attorney Kolb stated that the sale of alcoholic beverages at gas stations is regulated by the LCC, The Liquor

Control Commission. They have in place under State Law standards that would apply. There are very strict conditions, mainly related to the size of the building. In the past, it has typically only applied to larger stores like Meijer's who have a few gas pumps out front. The standards require stores to have \$250,000.00 worth of merchandise excluding alcohol or the fuel itself. So per the state standards, the license would really only be available for larger stores, of which there haven't been very many. Because of this requirement you did not see liquor licenses or liquor, beer or wine being sold at gas stations in the past.

However, these types of sales are becoming an issue because of a combination of larger stores and gas stations being constructed, along with the Meijer's-type stores getting gas stations and the limited staff at the Liquor Control Commission to monitor these sales. Now is the opportunity to step in at the city level and say, we want to regulate this even more through the use of zoning ordinance tools, as stated in the amendment before you tonight. This proposed ordinance is one that was prepared for another client community that had a policy that they did not want to allow the sale of alcohol at gas stations. So, the proposed ordinance is a complete prohibition. As Deputy Director McBeth stated, this is a policy decision for the city.

Deputy Director McBeth asked the Planning Commission what their thoughts were on how to handle this, whether they wanted an outright prohibition of such sales or if they would rather such sales be handled at the state level.

Chair Pehrson stated that he would like to see more data come back from the Planning Division relative to what other communities are doing, where, given the zoning, these super stores might be located and to have an understanding of where the stores would be relative to residences and things of that nature.

Member Lynch stated that it sounded like the Liquor Control Commission did not have the staff to monitor violations. Member Lynch also questioned if we were basically creating an ordinance that would allow us to do what the Liquor Control Commission is supposed to do and would we be burdening the city with additional work.

Deputy Director McBeth stated that she did not think the city would necessarily be burdened with it and the question essentially was would the city want to regulate this sort of sale at gas stations. Also, would the city want to apply any conditions or different standards, for example a proximity to residential districts, than the ones that are provided by the Liquor Control Commission.

Member Lynch stated that these were all good points, and he did understand that the Meijer, Sam's Club and Costco are all huge businesses. Member Lynch was as surprised as Chair Pehrson that gas stations were never allowed to sell liquor, beer or wine.

City Attorney Kolb stated that in the past this was not an issue because the Liquor Control's Commissions regulations previously prohibited such sales. Ten years ago, a statute was put in place that creates this 50,000 square feet or \$250,000.00 worth of merchandise exception. It has been rarely used, however with the Sunshine Market in, and possibly more of these to come, it might be something the would want to consider regulating. City Attorney Schultz and Kolb identified about half-a-dozen gas stations in the area around us where such a standard might apply.

Member Lynch stated that you have to look at the intent and that his understanding was that you did not want people behind a motor vehicle going to a gas station and running in and picking up a six-pack and leaving. With the super stores, that is not going to happen.

Member Greco stated that he was also surprised by the amendment. He had not been to the Sunshine Market as of yet, but was going to go there and check it out. It seems awfully convenient, not to drink and drive, but Member Greco can also imagine going out to a party and stopping to get gas and instead of making 2 stops, you make only one. Member Greco stated that he would like more information and had no objection to the Public Hearing, but did have concerns. Member Greco then questioned if there was a problem with the Sunshine Market, or if this was something that has just come up.

Deputy Director McBeth stated that there was not a problem and that it was a nice market and gas station. It was a question that came up because we identified there is only one station currently selling alcohol, and it has been contrary to what we have seen in the past in Novi. Deputy Director McBeth stated that after talking with the city attorney's office, we found that some of the other communities are considering regulations that would prohibit this kind

of venture. However, this is a broad policy question for discussion.

Member Greco stated that he thinks he knows where we are heading with this along with Chair Pehrson. Member Greco asked for more data on this before we set this for a Public Hearing.

Chair Pehrson agreed with Member Greco and asked if anyone else on the Planning Commission had comments.

Member Meyer wanted to comment on item A, and felt that that alcohol is not a product that should be conveniently available to the motoring public where they purchase fuel for their vehicle, and would like more information before we have a Public Hearing.

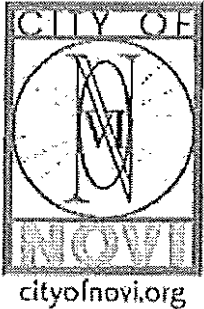
Chair Pehrson asked Deputy Director McBeth if that was enough direction.

Deputy Director McBeth answered the Chair and stated that the staff would put more information together and bring this back to the Planning Commission as a whole.



**MEMOS FROM PLANNING STAFF AND  
THE POLICE DEPARTMENT**

## 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: 1990, Act 69, Imd. Eff. Apr. 14, 1993; 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 68, 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: 1988, Act 60, Imd. Eff. Apr. 14, 1988.

**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.

## 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

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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.