



Legislation Details (With Text)

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**Type:** MISCELLANEOUS      **Status:** Hearing Closed; Approved  
HEARINGS - UNDER  
ADVISEMENT

**File created:** 5/14/2020      **In control:** Department of Sustainable Development and  
Construction

**On agenda:** 5/27/2020      **Final action:** 5/27/2020

**Title:** A public hearing on an application for and a resolution granting a variance to the alcohol spacing requirements from a public school, Sam Houston Elementary School as required by Section 6-4 of the Dallas City Code to allow a mixed-beverages permit (Chapter 28 the Texas Alcoholic Beverage Code) for a restaurant without drive-in or drive-through service with a food and beverage certificate [Mario Alfaro's Inc. dba Mario's Mexican and Salvadorian Restaurant] east corner of Cedar Springs Road and Douglas Avenue - AV190-005 - Financing: No cost consideration to the City (This item was deferred by the City Council before opening the public hearing on May 13, 2020, and is scheduled for consideration on May 27, 2020)

**Sponsors:**

**Indexes:** 2

**Code sections:**

**Attachments:** 1. Map, 2. Application, 3. Officers, 4. Resolution, 5. Alcohol\_Survey, 6. Staff Report

Date	Ver.	Action By	Action	Result
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**STRATEGIC PRIORITY:** Mobility Solutions, Infrastructure, and Sustainability

**AGENDA DATE:** May 27, 2020

**COUNCIL DISTRICT(S):** 2

**DEPARTMENT:** Department of Sustainable Development and Construction

**EXECUTIVE:** Majed Al-Ghafry

**SUBJECT**

A public hearing on an application for and a resolution granting a variance to the alcohol spacing requirements from a public school, Sam Houston Elementary School as required by Section 6-4 of the Dallas City Code to allow a mixed-beverages permit (Chapter 28 the Texas Alcoholic Beverage Code) for a restaurant without drive-in or drive-through service with a food and beverage certificate [Mario Alfaro's Inc. dba Mario's Mexican and Salvadorian Restaurant] east corner of Cedar Springs Road and Douglas Avenue - AV190-005 - Financing: No cost consideration to the City (This item was deferred by the City Council before opening the public hearing on May 13, 2020, and is scheduled for consideration on May 27, 2020)

**BACKGROUND**

Section 6-4 of Chapter 6, "Alcoholic Beverages," of the Dallas City Code allows Council to grant a variance from the usual spacing required between an alcohol business and a protected use. The usual spacing requirement is 300 feet in a direct line from the property line of the open-enrollment charter school to the property line of the place of business.

The standard for approval of the variance is that:

- A. the application is for one of the following permits pursuant to the following chapters of the Texas Alcoholic Beverage Code:
  - (i) a brewer's permit, Chapter 12;
  - (ii) a distiller's and rectifier's permit, Chapter 14;
  - (iii) a winery permit, Chapter 16;
  - (iv) a wine and beer retailer's permit, Chapter 25;
  - (v) a wine and beer retailer's off-premise permit, Chapter 26;
  - (vi) a mixed beverage permit with a food and beverage certificate, Chapter 28; or
  - (vii) a manufacturer's license, Chapter 62.
  
- B. the application is for one of the following land uses:
  - (i) general merchandise or food store use with 10,000 square feet or more of floor area
  - (ii) restaurant without drive-in or drive-through service with a food and beverage certificate pursuant to the Texas Alcoholic Beverage Code;
  - (iii) alcoholic beverage establishment limited to a microbrewery, microdistillery, or winery; or
  - (iv) alcoholic beverage manufacturing.
  
- C. alcoholic beverages will not be sold by drive-in or drive-through service; and
  
- D. enforcement of the spacing requirements in this particular instance:
  - (i) is not in the best interest of the public;
  - (ii) constitutes waste or inefficient use of land or other resources;
  - (iii) creates an undue hardship on an applicant for an alcohol permit;
  - (iv) does not serve its intended purpose;
  - (v) is not effective or necessary; or
  - (vi) for any other reason that the City Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

The ±3.485-acre request site, which is zoned Planned Development Subdistrict No. 76 within Planned Development District No. 193, the Oak Lawn Special Purpose District, is developed with a mixed-use building. The request site is surrounded by retail uses and a library to the northeast, a bank and retail uses to the southeast, and mixed density residential uses to southwest and northwest. The public school is located to the south of the request site on the corner of Knight Street and Dickason Street. While the required spacing from a school is measured property line to property line, the distance from the school to the proposed restaurant suite is over 500 feet if measured from door-to-door. Due to the restaurant suite's location on Cedar Springs Road among other similar non-residential uses, staff supports this request.

This item requires two seconds to pass.

**PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)**

On November 9, 2009, the City Council approved an ordinance amending Section 6-4 of Chapter 6 of the Dallas City Code, establishing authority and procedures for City Council to grant an application for a variance to the spacing requirements for an alcohol business from a public or private school pursuant to Texas Alcoholic Beverage Code Section 109.33(e).

On October 26, 2011, September 26, 2012, and January 22, 2014, the City Council further amended Section 6-4 of Chapter 6.

**FISCAL INFORMATION**

No cost consideration to the City.

**OWNER**

**Mario's Alfaro's Inc.**

Mario Alfaro, President

**VR Oak Lawn Limited PS**

VR Oak Lawn Limited GP LLC, General Partner

VR Oak Lawn Portfolio Holdings LP, Limited Partner

**MAP**

Attached