



Legislation Details (With Text)

**File #:** 22-1603      **Version:** 1      **Name:**

**Type:** MISCELLANEOUS      **Status:** Hearing Closed; Approved  
HEARINGS

**File created:** 7/15/2022      **In control:** Department of Planning and Urban Design

**On agenda:** 8/10/2022      **Final action:**

**Title:** A public hearing on an application for and a resolution granting a variance to the alcohol spacing requirements from a public school, Hector Garcia Middle School, as required by Section 6-4 of the Dallas City Code to allow a mixed-beverage permit (pursuant to Chapter 28 of the Texas Alcoholic Beverage Code) for a restaurant without drive-in or drive-through service with a food and beverage certificate [La Lucha, LLC dba Del Sur Tacos] on the northeast corner of East Jefferson Boulevard and East 10th Street - AV212-002 - Financing: No cost consideration to the City

**Sponsors:**

**Indexes:** 1

**Code sections:**

**Attachments:** 1. Map, 2. Application, 3. Officer List, 4. Survey, 5. Resolution

Date	Ver.	Action By	Action	Result
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**STRATEGIC PRIORITY:** Economic Development

**AGENDA DATE:** August 10, 2022

**COUNCIL DISTRICT(S):** 1

**DEPARTMENT:** Department of Planning and Urban Design

**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, Hector Garcia Middle School, as required by Section 6-4 of the Dallas City Code to allow a mixed-beverage permit (pursuant to Chapter 28 of the Texas Alcoholic Beverage Code) for a restaurant without drive-in or drive-through service with a food and beverage certificate [La Lucha, LLC dba Del Sur Tacos] on the northeast corner of East Jefferson Boulevard and East 10<sup>th</sup> Street - AV212-002 - Financing: No cost consideration to the City

**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 public 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.

An application for a waiver of the spacing requirements was submitted on June 24, 2022, by La Lucha, LLC dba Del Sur Tacos. Hector Garcia Middle School, located to the northwest of the request site, creates the need for the variance. The ±11,930 square feet request site, zoned Subdistrict F within Planned Development District No. 468, the Oak Cliff Gateway Special Purpose District, is developed with a restaurant. The applicant proposes to continue to operate the restaurant and to sell alcoholic beverages for on-premise consumption with a mixed beverage permit in conjunction with a restaurant without drive-in or drive-through service with a food and beverage certificate.

While the 300 feet required spacing from a public school is measured property line to property line, the walking distance from the school to the restaurant is approximately 1,122 feet measured from door-to-door. Due to the request site being over 1,100 feet away by walking distance and located on a major thoroughfare (E. Jefferson Boulevard), staff has no objection to this request

This item requires two seconds to pass.

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

On November 9, 2009, 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), by Resolution No. 09-2831 and Ordinance No 27747.

On October 26, 2011, September 26, 2012, and January 22, 2014, City Council authorized an ordinance amending Section 6-4 of Chapter 6 of the Dallas City Code to amend the standards for approval of applications for variances from the spacing requirements for alcohol permits by Ordinance Nos. 28444, 28799, and 29261.

### **FISCAL INFORMATION**

No cost consideration to the City.

### **MAP**

Attached