



Legislation Text

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File #: 23-1628, Version: 1

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**STRATEGIC PRIORITY:** Economic Development  
**AGENDA DATE:** June 28, 2023  
**COUNCIL DISTRICT(S):** 14  
**DEPARTMENT:** Department of Planning and Urban Design  
**EXECUTIVE:** Majed Al-Ghafry

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**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 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 [Giant Blue Inc. dba Ai Sushi Sake Grill] on the west corner of Cedar Springs Road and Knight Street - AV223-002 - 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 May 11, 2023, by Giant Blue Inc. dba Ai Sushi Sake Grill. The request site, zoned Subdistrict No. 76 within Planned Development District No. 193, the Oak Lawn Special Purpose District, is developed with a multi-level mixed-use building. The restaurant is located on the ground level within the mixed-use building, surrounded by retail and personal service uses with residential above.

The public school is located to the south of the request site on the corner of Throckmorton Street and Dickason Street. The school entrance is on the southeast side of the building with the perimeter of the property being fenced. While the 300 feet required spacing from a public school is measured from the property line of the public school to the property line of the place of business, the walking distance, measured door-to-door, from the entrance of the school to the entrance of the restaurant is approximately 1,350 feet. Due to the restaurant's location on Cedar Springs Road and the walking distance being over 1,300 feet around the perimeter of the school to the entrance on the southeast side, staff has no objection to this request.

This item requires two seconds to pass.

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

On November 9, 2009, the City Council authorized 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; Ordinance No 27747.

On October 26, 2011, September 26, 2012, and January 22, 2014, the 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.

**OWNER**

**Cedar Springs III LLC/SEP Dallas 556 LLC Park West I LLC**

Zev Schick - Officer

**Officers**

**Giant Blue Inc.**

Jimmy Cho - Sole Owner

**MAP**

Attached