



Legislation Details (With Text)

File #: 20-527 **Version:** 1 **Name:**

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

File created: 3/12/2020 **In control:** Department of Sustainable Development and Construction

On agenda: 4/8/2020 **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, L. G. Pinkston High School as required by Section 6-4 of the Dallas City Code to allow a wine and beer retailer's off-premise permit (Chapter 26 of the Texas Alcoholic Beverage Code) for a general merchandise or food store with 10,000 square feet or more floor area [A & S Supermarkets, LLC] on the north line of Singleton Boulevard and the west line of Hampton Road - AV190-003 - Financing: No cost consideration to the City

Sponsors:

Indexes: 6

Code sections:

Attachments: 1. Map, 2. Application, 3. Officers, 4. Survey, 5. Resolution

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

AGENDA DATE: April 8, 2020

COUNCIL DISTRICT(S): 6

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, L. G. Pinkston High School as required by Section 6-4 of the Dallas City Code to allow a wine and beer retailer's off-premise permit (Chapter 26 of the Texas Alcoholic Beverage Code) for a general merchandise or food store with 10,000 square feet or more floor area [A & S Supermarkets, LLC] on the north line of Singleton Boulevard and the west line of Hampton Road - AV190-003 - 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 Dallas Independent School District 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 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 February 10, 2020, by A & S Supermarkets, LLC. Pinkston High School, located to the north of the request site, creates the need for the variance.

On April 11, 2018, City Council denied an application for a variance from the alcohol spacing requirements prescribed by Subsection 6-4(a) for a Fiesta Mart, LLC in the same location. On January 22, 2014, City Council authorized a variance from the alcohol spacing requirements prescribed by Subsection 6-4(a) for a Minyards Food Store in the same location.

The request site contains approximately 12.6 acres of land with multiple structures. The largest structure is a multi-tenant shopping center with approximately 116,000 square feet of floor area. The applicant proposes to sell alcohol for off-premise consumption at the existing vacant grocery store

located on the eastern side of the largest multi-tenant shopping center structure. The grocery store portion of the building is approximately 36,652 square feet in floor area.

While the required spacing from a school is measured property line to property line, the walking distance from the entrance of the public school to the entrance of the grocery store is approximately 1,755 feet, or between a quarter and a third of one mile. Additionally, the site is located at the intersection of two major thoroughfares (Hampton Road and Singleton Boulevard). Due to the location on two major thoroughfares and the physical separation of the existing structures, staff can support 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).

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.

OWNERS

Trinity West, LLC

Corey Duhon, Manager

A & S Supermarkets, LLC

Ali Saleh, Manager

MAP

Attached