



## Legislation Text

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**File #:** 21-2240, **Version:** 1

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**STRATEGIC PRIORITY:** Economic and Neighborhood Vitality  
**AGENDA DATE:** December 8, 2021  
**COUNCIL DISTRICT(S):** 14  
**DEPARTMENT:** Department of Planning and Urban Design  
**EXECUTIVE:** Dr. Eric A. Johnson

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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 private school, St. Thomas Aquinas Catholic 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 [Mockingbird Terrace Opco LLC] on the northeast corner of East Mockingbird Lane and Norris Street - AV212-001 - 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 private 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 request site contains approximately 96,891 square feet, is zoned NS(A) Neighborhood Service, and is developed with a vacant restaurant. The applicant proposes to open a new restaurant on the property and seeks to sell alcoholic beverages. The request site abuts a private school, St. Thomas Aquinas Catholic School, which is located east of the request site on Mockingbird Lane. While the 300 feet required spacing from a school is measured property line to property line, the walking distance from the school to the proposed restaurant is approximately 1,182 feet measured from door-to-door. Due to the request site being approximately 1,182 feet away by walking distance and located on a major thoroughfare (Mockingbird Lane), 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; 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.