

# Memorandum



DATE August 17, 2012

TO Members of the Economic Development Committee:  
Tennell Atkins (Chair), Ann Margolin (Vice Chair), Jerry Allen, Monica Alonzo, and  
Sheffie Kadane

SUBJECT Consideration of Amendments to Standards for Variances to Alcohol Spacing  
Requirements

On Monday, August 20, 2012, the Economic Development Committee will be briefed on possible amendments to the standards for variances to alcohol spacing requirements in Chapter 6 of the City Code. The briefing material is attached for your review.

Please feel free to contact me if you need additional information.

Ryan S. Evans  
Assistant City Manager

c: The Honorable Mayor and Members of the City Council  
Mary K. Suhm, City Manager  
Thomas P. Perkins, Jr. City Attorney  
Rosa Rios, City Secretary  
Craig Kinton, City Auditor  
Judge C. Victor Lander, Administrative Judge  
A.C. Gonzalez, First Assistant City Manager  
Jill Jordan, P.E., Assistant City Manager  
Forest Turner, Assistant City Manager  
Joey Zapata, Assistant City Manager  
Jeanne Chipperfield, Chief Financial Officer  
Edward Scott, City Controller  
Frank Libro, Public Information Office  
Theresa O'Donnell, Director, Sustainable Development and Construction  
Rick Galceran, Director, Public Works  
Stephanie Pegues-Cooper, Assistant to the City Manager – Council Office

# Consideration of Amendments to Standards for Variances to Alcohol Spacing Requirements

Chapter 6, Alcoholic Beverages, of the Dallas City Code

**City Council**  
**Economic Development Committee**  
**August 20, 2012**



# Background

- Section 6-4 of the Dallas City Code requires that alcohol businesses be spaced at least 300 feet from churches, public or private schools, public hospitals, day-care centers, and child-care facilities, and spaced 1,000 feet from designated public or private schools.
- Section 109.33(e) of the Texas Alcoholic Beverage Code allows the City Council to grant variances from these spacing requirements.

# Background

- On November 9, 2009, the City Council approved a code amendment allowing City Council to consider variances to spacing requirements for wine and beer retailers with a floor area greater than 50,000 square feet from a public or private school.
- On October 26, 2011, the City Council approved a code amendment allowing City Council to grant variances to spacing requirements for
  - wine and beer retailers with 30,000 square feet or more of floor area
  - a wine and beer retailer's permit with a food and beverage certificate or a mixed beverage permit with a food and beverage certificate and if the applicant has a certificate of occupancy for a restaurant without drive-in or drive-through service.

# Background

## Current Standards for Approval

- The application is for:
  - a wine and beer retailer's permit pursuant to Chapter 25 of the Texas Alcoholic Beverage Code with a food and beverage certificate;
  - a wine and beer retailer's off-premise permit pursuant to Chapter 26 of the Texas Alcoholic Beverage Code; or
  - a mixed beverage permit pursuant to Chapter 28 of the Texas Alcoholic Beverage Code with a food and beverage certificate;

# Background

## Current Standards for Approval (Cont)

- The application is for one of the following uses as defined in the Dallas Development Code:
  - a general merchandise or food store with 30,000 square feet or more of floor area; or
  - a restaurant without drive-in or drive-through service;

# Background

## Current Standards for Approval (Cont)

- The front door of the business where alcoholic beverages will be sold does not face the property of the protected use;
- Alcoholic beverages will not be sold by drive-in or drive-through service; and

# Background

## Current Standards for Approval (Cont)

- A determination that enforcement of the spacing requirements in this particular instance:
  - is not in the best interest of the public;
  - constitutes waste or inefficient use of land or other resources;
  - creates an undue hardship on an applicant for an alcohol permit;



# Background

## Current Standards for Approval (Cont)

- A determination that enforcement of the spacing requirements in this particular instance:
  - does not serve its intended purpose;
  - is not effective or necessary; or
  - 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.

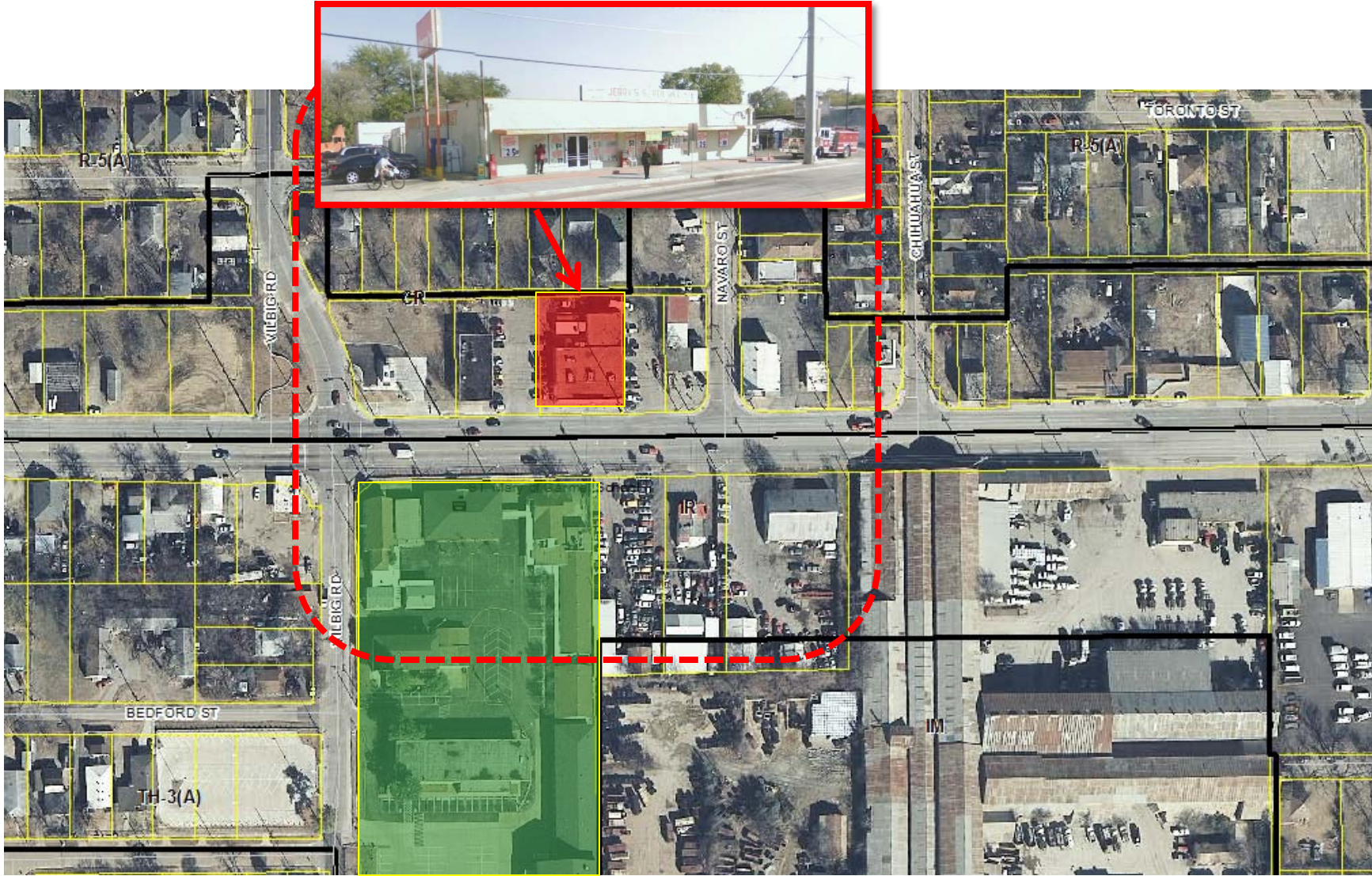
# Background

- To date, staff has received a total of 6 variance applications.
- 5 applications have been for beer and wine retailers, one is pending and 4 were approved
- 1 application has been for a restaurant, but was withdrawn prior to council consideration.

# Background

- The current standards still prohibit some small to mid-size retailers from having the opportunity to request a variance to the spacing requirements.
- There is at least one grocery store that is less than 30,000 square feet that is interested in the opportunity to request a variance from the spacing requirements.
- Staff was directed to develop options for City Council to consider amending the alcohol variance process to permit smaller retailers the opportunity to request a variance.

# Example



# Options

## Minimum Floor Area Requirements

- Amend Section 6-4 to:
  - allow retailers with a minimum of 10,000 square feet of floor area to apply for a variance (10,000 square feet is the threshold for convenience store regulations to apply); or
  - delete the minimum square feet of floor area requirement and allow all retailers to apply for a variance.

# Options

## Other Requirements

- Amend Section 6-4 to:
  - Allow the front door of the business where alcoholic beverages will be sold to face the property of the protected use provided it does not face the primary entrance to the school; or
  - Delete the requirement that the front door of the business where alcoholic beverages will be sold may not face the property of the protected use.

# Next Steps

- Schedule for City Council Consideration