

Mayor and Council Communication

DATE: 05/09/23

M&C FILE NUMBER: M&C 23-0354

LOG NAME: 06AA23-00009 FOR 4525 W. BAILEY BOSWELL RD

SUBJECT

(CD 7 / Future CD 7) Conduct Public Hearing to Consider Variance from Section 4-4 of the City Code to Allow Beer and Wine Sales for Off-Premise Consumption at a Future Sprouts Grocery Located at 4525 W. Bailey Boswell Road

(PUBLIC HEARING - a. Report of City Staff: Beth Knight; b. Public Comment; c. Council Action: Close Public Hearing and Act on M&C)

RECOMMENDATION:

It is recommended that the City Council consider a request from Tim Mondello, a potential lessor of Sprouts Farmers Market and as authorized by Retail Corners, LLC, property owner, for the property located at 4525 W. Bailey Boswell Road for a variance from Section 4-4 of the City Code prohibiting the sale of alcoholic beverages within 300 feet of Wayside Middle School located at 1300 N. Old Decatur Road.

DISCUSSION:

Tim Mondello, a potential lessor of Sprouts Farmers Market and as authorized by Retail Corners, LLC, the property owner, is requesting a variance to sell beer and wine for off-premise consumption in a future grocery store located at 4525 W. Bailey Boswell Road. The potential grocery store is located immediately across the street to the Wayside Middle School, located at 1300 N. Old Decatur Road, as depicted on the attached map.

Section 4-4(a) of the City's Alcoholic Beverages Code, Chapter 4 of the City Code, provides that it is unlawful to sell alcoholic beverages at a place of business that is located within 300 feet of any church, public school, or public hospital. The measurement of the distance between the place of business where alcoholic beverages are sold and a school shall be from the property line of the school to the property line of the place of business requesting the variance. The distance measured is 180 feet.

Section 4-4(f) of the City Code provides that the City Council may grant a variance from the 300-foot regulation as follows: The City Council may allow a variance to this section if it determines that the enforcement of the regulation in a 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 the applicant for a license or permit, does not serve its intended purpose, or is not effective or necessary, or that a previous permit was issued for the premises in error and enforcement of the regulation would be inequitable, or for any other reason the City Council determines, after consideration of the health, safety and welfare of the public and the equities of the situation, that the variance is in the best interest of the community. Mr. Mondello requests that the City Council grant a variance from the 300-foot distance regulation.

This Mayor and Council Communication (M&C) requires a public hearing to get input from the applicant and surrounding property owners. Notice of the hearing has been sent to owners of property within 300 feet as required by Section 4-4(f) of the City Code and to registered neighborhood organizations within 1/2 mile of 4525 W. Bailey Boswell Road. A letter from the Eagle Mountain - Saginaw School District has been submitted by the applicant; however, the letter does not address alcohol sales.

This property is located in COUNCIL DISTRICT 7 / FUTURE COUNCIL DISTRICT 7.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of this recommendation will have no material effect on City funds.

Submitted for City Manager's Office by: Dana Burghdoff 8018

Originating Business Unit Head: D.J. Harrell 8032

Additional Information Contact: Daniel Leal 6214