

CITY COUNCIL MEMORANDUM

FROM: The Office of the City Manager **DATE:** September 14, 2020

SUBJECT: Ordinance No. 3663, consideration of a request from Convergence Capital, LLC for a variance to the distance requirements for the sale of alcohol for on-premise consumption on 8.443 acres in the 9000 block of Mid-Cities Boulevard and described as Tract 12G, Tandy K. Martin Survey, Abstract 1055.

PRESENTER: Clayton Comstock, Planning Director

SUMMARY:

Convergence Capital, LLC is the owner/developer of 8.443 acres of commercial property located on the north side of Mid-Cities Boulevard between Hawk Avenue and Precinct Line Road, or across from Birdville High School. Convergence Capital is seeking City Council's approval of a variance to [Section 6-31 of the City Code](#) (Alcoholic Beverages Establishments) regarding the distance requirements from schools, churches and hospitals for the sale of alcohol for on-premise consumption.

GENERAL DESCRIPTION:

A letter from Convergence Capital detailing the reasons for their request is attached. In summary, the owner has prospective restaurant uses considering the property. The restriction on the sale of alcohol due to its proximity across Mid-Cities from Birdville High School, however, would significantly limit the pool of possible restaurant uses. Representatives from Convergence Capital will be present at the City Council meeting to present their request and answer questions.

Pursuant to Section 6-31(c), notice of the application was provided to the officials of Birdville ISD prior to official filing with the City.

RESTRICTIONS AND CONDITIONS ON VARIANCE

Ordinance 3663 is written such that the variance to the alcohol distance requirements is subject to the following conditions:

1. The Property is authorized to be permitted for the sale of alcoholic beverages for on-premise consumption within three hundred (300) feet of a church, public or private school, or public hospital. Sale of alcohol for off-premise consumption (i.e. convenience stores, beer & wine stores, daiquiris-to-go stores, etc.) would not be permitted by this ordinance.

2. The variance to the alcohol distance requirements is valid only for the following permit types issued by the Texas Alcoholic Beverage Commission for on-premise consumption:
 - a. Food and Beverage Certificate (FB)
 - b. Mixed Beverage Permit (MB)
 - c. Mixed Beverage Restaurant Permit with FB (RM)
3. The variance to the alcohol distance requirements specifically excludes Mixed Beverage Late Hours Permit (LB) and Wine and Beer Retailer's Permit (BG) and may not be sold between the hours of midnight and 7:00 a.m. The applicant has specifically targeted restaurant businesses that might serve such brunch cocktails as mimosas.
4. The sale of alcohol for on-premise consumption must not exceed thirty percent (30%) of total sales. Such proportion may be audited annually as provided by Section 6-3, Reporting Requirement. Alcohol sales in excess of thirty percent (30%) of total sales may result in suspension or revocation of permits. This limitation would deter restaurants primarily focused on the sale of alcohol.
5. The variance to the alcohol distance requirements is valid for subsequent renewals of alcohol permits on the property.
6. The variance to the alcohol distance requirements shall not be transferred to another location, assigned or otherwise transferred to another entity that will have ownership interest in the property without the prior approval of the City Council, which such approval may be withheld in the City's sole discretion. In the event a lessee is under a valid lease at the time of a transfer of majority ownership interest, the variance shall apply for that lessee through the end of the lease term (including any renewal terms).

RECOMMENDATION:

Approve Ordinance 3663.