



REQUEST FOR CITY COUNCIL AGENDA ITEM

Agenda Date Requested: <u>June 10, 2024</u>
Requested By: <u>Teresa Evans, Director</u>
Department: <u>Planning and Development</u>
<input type="radio"/> Report <input type="radio"/> Resolution <input checked="" type="radio"/> Ordinance

Appropriation	
Source of Funds:	<u>N/A</u>
Account Number:	<u>N/A</u>
Amount Budgeted:	<u>N/A</u>
Amount Requested:	<u>N/A</u>
Budgeted Item:	<input type="radio"/> Yes <input checked="" type="radio"/> No

Exhibits: Ordinance 2024-3988; Area Maps; Zoning Map; FLUP Map; Notification Map; TABC Pre-qualification Application; LPISD Approval Letter; Public Hearing Notice

SUMMARY & RECOMMENDATION

The City Council will hold a public hearing to receive comments regarding a request by Garden of Eden Floral & Gifts, LLC., to authorize a variance to Section 6-2 of the Code of Ordinances of the City of La Porte to allow the sale of alcoholic beverages for on-premise consumption at Garden of Eden Floral and Gifts, LLC., located at 10515 Spencer Highway, La Porte, Texas, within 300 feet of a public school, followed by possible action to adopt Ordinance 2024-3988 authorizing a variance to Section 6-2 of the Code of Ordinances of the City of La Porte, by allowing the sale of alcoholic beverages for on-premise consumption at Garden of Eden Floral and Gifts, LLC., located at 10515 Spencer Highway, La Porte, Texas, within 300 feet of a public school.

Note: The information above and below pertains to the applicant's request for a variance related to distance from schools and churches. However, this variance is separate from and cannot address the City of La Porte prohibition on the consumption or possession with intent to consume for alcoholic beverages on City property (Sec. 6-3(1), see at https://library.municode.com/tx/la_porte/codes/code_of_ordinances?nodeId=SPAGEOR_CH6A_LBE_ARTIINGE_S6-3COPOINCOALBEPR). It is expected that a draft ordinance will be provided for the June 24 meeting for the Council to consider a carve-out for the airport or portions of the airport property, as has been done for the golf course and for Parks and Recreation events. Approval of the distance variation under consideration at tonight's meeting will not enable the applicant to begin selling alcohol for on-premise consumption.

Garden of Eden Floral & Gifts, LLC., applicant, has applied for a permit to the Texas Alcohol Beverage Commission (TABC) to serve alcohol to patrons at the tearoom located at 10515 Spencer Highway. The required distance to a public school to sell alcohol, as measured from nearest property line to nearest property line, is 300 feet. The subject site is located within 300 feet of the La Porte Independent School District (LPISD) property containing Rizzuto Elementary School at 3201 Farrington Street, La Porte, Texas.

The required distance to a church or public hospital is also 300 feet, measured from front door to front door along the street front. The distance measurement from the front door of Garden of Eden to the front door of Bayshore Baptist Church, located at 11311 Spencer Highway, is approximately 4,882 feet. The distance measurement from the front door of Garden of Eden to the front door of Fairmont Park Baptist Church, located at 10401 Belfast Road, is approximately 2021 feet. Since the door-to-door distance to both churches is more than 300 feet, a variance is not required.

The applicant is requesting a variance from the 300-foot distance requirement to the public school. Pursuant to Section 109.33(e) of the Texas Alcohol Beverage Code, the City Council may, upon application of a business subject to the distance requirements established in this section, also allow variances to the regulation if the City Council determines that enforcement of the regulation in a particular instance:

1. is not in the best interest of the public;
2. constitutes waste or inefficient use of land or other resources;
3. creates an undue hardship on an applicant for a license or permit;
4. does not serve its intended purpose;
5. is not effective or necessary; or
6. for any other reason, the City Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines that the variance is in the best interest of the community.

The following findings are applicable to this request:

1. The tearoom location at 10515 Spencer Highway is located on the La Porte Municipal Airport property and faces south towards Spencer Highway, and Rizzuto Elementary School is located at 3201 Farrington Street and faces west towards Farrington Street.
2. The distance from the property line of the tearoom to the property line of the elementary school is approximately 224 feet; the distance from the front door to the property line of the elementary school is approximately 334 feet; and the distance from the front door of the tearoom to the front door of the elementary school is approximately 855 feet.

The applicant also submitted a request for consideration to the LPISD Board of Trustees. On April 9, 2024, the LPISD Board of Trustees unanimously approved Garden of Eden Floral & Gifts, LLC., to proceed with issuance of a license and/or permit for the sale of alcoholic beverages on the property located at 10515 Spencer Highway, La Porte, TX. The LPISD letter of approval is attached.

Staff recommends the City Council consider the request to authorize a variance to allow the sale of alcoholic beverages for Garden of Eden Floral & Gifts, LLC., located at 10515 Spencer Highway, for on-premises consumption of alcoholic beverages within 300 feet of Rizzuto Elementary School.

STRATEGIC PLAN KEY FOCUS AREAS AND GUIDING PRINCIPLES

Governance: The City of La Porte is governed in a transparent, efficient, accountable, and responsive manner on behalf of its citizens that actively promotes citizen involvement.

Economic Development: *The City of La Porte will promote a strong and diverse economy that strengthens the local sales tax and property tax base while also contributing to a high quality of life.*

ACTION REQUIRED BY CITY COUNCIL

Approve or Deny Ordinance 2024-3988 authorizing a variance to Chapter 6 of the City of La Porte Code of Ordinances to allow alcohol sales at Garden of Eden Floral & Gifts, LLC., located at 10515 Spencer Highway, for on-premises consumption of alcoholic beverages within 300 feet of a public school.