



## Legislation Text

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File #: 23-0468, Version: 1

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### **CITY COUNCIL AGENDA ITEM**

#### **ACTION REQUESTED:**

Pass the ordinance approving a variance to allow the issuance of a Class D - Package Store liquor license for a premise less than 60,000 square feet to Star 7 Corporation at 3027 English Rows Avenue #115

**DEPARTMENT:** Legal Department

**SUBMITTED BY:** Jennifer Bonner, Senior Assistant City Attorney

#### **BOARD/COMMISSION REVIEW:**

The Liquor Commission considered this matter on April 6, 2023 and voted unanimously to recommend approval of the variance.

#### **BACKGROUND:**

Star 7 is a package liquor store located at 10300-10350 State Route 59 commonly known as Saddlewood Commercial Complex.

Under the Naperville liquor code, package liquor licenses are generally relegated to large shopping centers unless they are grandfathered in as having been established prior to the package liquor licenses regulations that contain shopping center square footage location limitations.

Star 7 has a Class D package liquor license that requires that premises be in a shopping center containing at least 60,000 square feet. Star 7 is currently in a shopping center that contains less than 60,000 square feet.

Star 7 was established as part of the Saddlewood Commercial Complex development that was annexed into the City in 2006. The annexation agreement contained a grandfathering provision allowing for the issuance of the Class D liquor license to Star 7 irrespective of the fact that it was not located within a qualifying shopping center. The annexation agreement grandfathering provision was for a fixed term and did not allow the continued operation of a liquor store beyond April 30, 2019.

On January 15, 2019, Star 7 petitioned the City Council for a variance to the Class D - Package Store liquor license square footage requirement so that Star 7 could continue to operate within the Saddlewood Commercial Complex. The City Council voted unanimously to recommend approval of the variance.

Recently, the City was contacted by Irene Bahr, an attorney for Star 7, concerning a request by their landlord to terminate Star 7's lease to redevelop the property. After speaking with staff, the attorney for Star 7 submitted a variance petition to relocate from 4067 S. Route 59 to 3027 English Rows

Avenue, Unit #115.

On April 6, 2023, Star 7 petitioned the Liquor Commission for a variance to the Class D - Package Store liquor license square footage requirement so that it may relocate. There were no objections to the request and the Liquor Commission voted unanimously to recommend approval of the variance to City Council. Draft minutes from the April 6, 2023 Liquor Commission meeting are attached.

**DISCUSSION:**

On September 6, 2016, Council approved repealing and replacing the Liquor Code. The new code created a procedure for processing variances to liquor license requirements.

The variance process for liquor licensing sets forth the following factors for consideration of a variance:

1. The variance is in harmony with the general purpose and intent of the Liquor Control Ordinance and the variance is not precedent setting; and
2. Strict enforcement of the Liquor Control Ordinances would result in practical difficulties due to special and/or unusual circumstances surrounding the party and circumstances substantially outside the petitioner's control; and
3. The variance, if granted, will not alter the essential character of the liquor establishment or underlying liquor license requirements and will not a substantial detriment to adjacent property.

Star 7 is in a unique position in that it is an existing business with a variance to the square footage requirements of the Class D liquor license. Star 7 is relocating across the street from their current location due to their current landlord's desire to redevelop the property. It has operated as a Class D liquor licensee since the annexation in 2006 without any violations. Star 7 has submitted the \$400 fee for processing the variance. If the variance is granted, Star 7 is still required to comply with all other conditions of the Class D liquor license and the Naperville Municipal Code. The only exception would be as to the size of the shopping center.

If the variance is not granted, Star 7 will likely have to close its business and vacate its leased space upon the expiration of its lease in April 2024.

**FISCAL IMPACT:**

Continued receipt of annual liquor license fee and corresponding sales tax.