

Thursday, October 05, 2006

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**Public Hearings and Possible Actions  
RECOMMENDATION FOR COUNCIL ACTION**

**ITEM No. 53**

**Subject:** Conduct a public hearing and consider a request for a waiver from the minimum distance requirement of City Code, Section 4-9-4(A) which requires 300 feet between a business that proposes to sell alcoholic beverages at 1000 West Lynn Street ("Galaxy Cafe") and a public school, Mathews Elementary School, at 1111 West 6th Street, Austin, TX.

**Fiscal Note:** There is no unanticipated fiscal impact. A fiscal note is not required.

**Additional Backup Material**

(click to open)

- ☐ [site\\_map](#)
- ☐ [letters](#)
- ☐ [Staff Report](#)
- ☐ [Resolution](#)

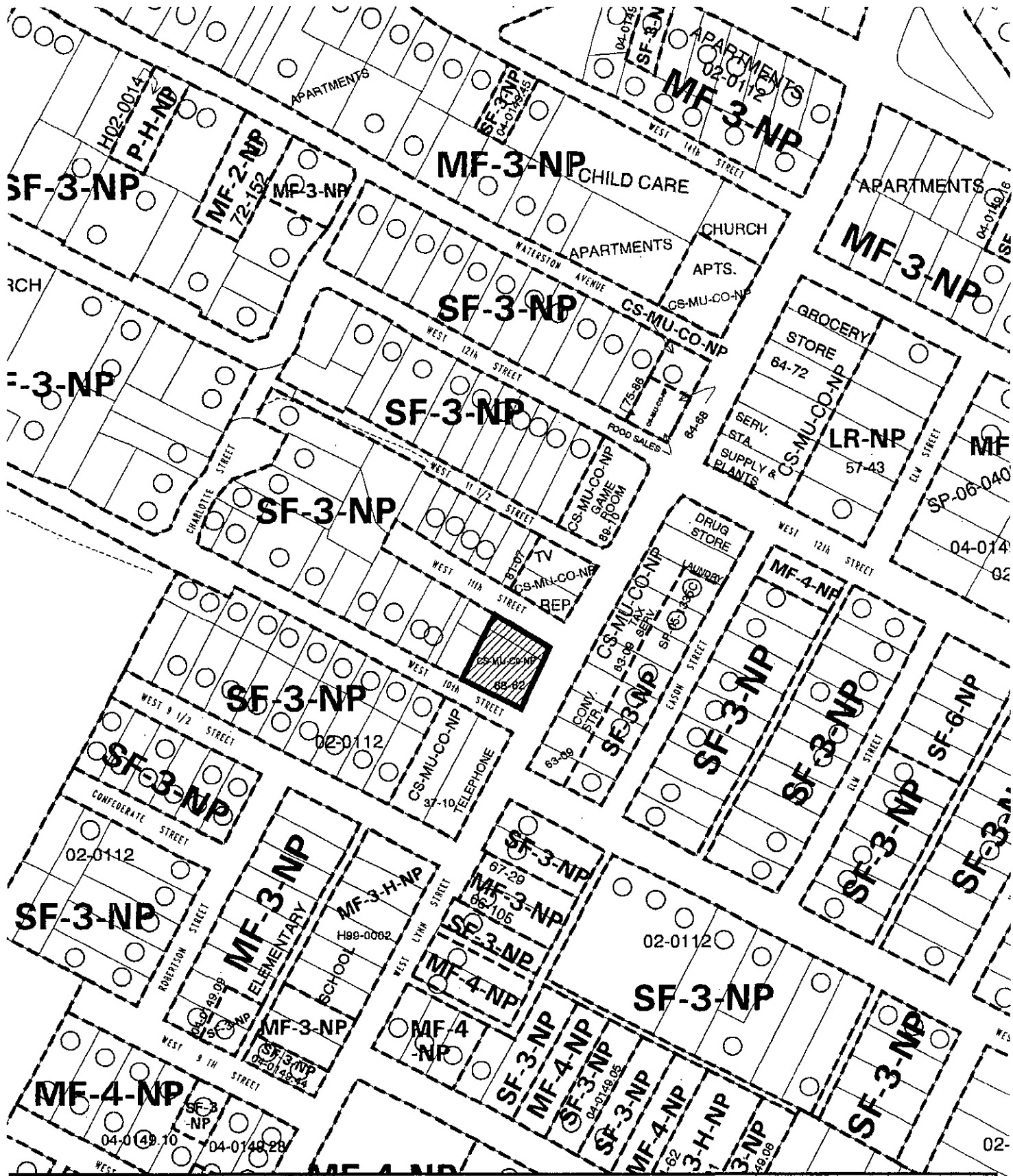
**For More Information:** Steve Wilkinson, 974-2657; Erica Eichert, 974-2720; Joan Esquivel, 974-3371


The owner of Galaxy Café, Kelly Chappell, requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the Austin City Code because she intends to sell alcoholic beverages at her restaurant which is located 278' from a public school, Mathews Elementary, at 1111 West 6th Street.

Section 4-9-5(A) allows the City Council to waive the 300 foot distance requirement if they determine that the enforcement of the distance requirement in a particular instance:

(1) is not in the best interest of the public; (2) constitutes waste or the inefficient use of land or other resources; (3) creates an undue hardship on the applicant; (4) does not serve its intended purpose; (5) is not effective or necessary; or (6) for any other reason the 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.

Written objections to the granting of the waiver have been received from Curtis E. Shaw, Director of Construction Management, Mathews Elementary School and Dan Robertson, Associate Director, Austin Independent School District.



 1" = 200'	SUBJECT TRACT PENDING CASE ZONING BOUNDARY CASE MGR: E.EICHERT	CASE #: SP-06-0405AW ADDRESS: 1000 W.LYNN ST. SUBJECT AREA (acres): N/A	SITE PLAN DATE: 06-08 INTLS: TRC	CITY GRID REFERENCE NUMBER H23

# Austin Independent School District

Department of Construction Management



June 12, 2006

Susan Walker  
Zoning Review Department  
505 Barton Springs Rd., 2<sup>nd</sup> Fl.  
Austin, TX, 78704

Dear Ms. Walker,

## ALCOHOL BEVERAGE PERMIT REQUEST

Austin Independent School District has received notification of an application of a license to sell beer and wine at the Galaxy Café, 1000 West Lynn St., Austin, Texas 78704, which is within 1,000 feet of Mathews Elementary School.

The District opposes this application because of the values articulated in the District's Results Policy No. 7, Health and Safety, as well as a belief that alcohol sales near schools is not generally conducive to a positive and safe learning environment. If you have questions, please call me at 414-3151

Sincerely

A handwritten signature in black ink, appearing to read "Curtis E. Shaw", with a long, sweeping horizontal line extending to the right.

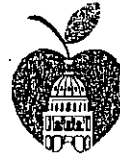
Curtis E. Shaw  
Director of Construction Management  
Austin Independent School District

CS/DR

cc: Amy Kinkade, Mathews Elementary School

# Austin Independent School District

Department of Construction Management



June 12, 2006

TO: Amy Kinkade, Principal  
Mathews Elementary School

FROM: <sup>DR</sup> Dan Robertson, Associate Director  
Office of Planning Services

SUBJECT: Application for License to Sell Alcoholic Beverages

The District has received notification of an application of a license to sell alcoholic beverages at the Galaxy Café, 1000 West Lynn St., which is within 1,000 feet of Mathews Elementary School. The District is opposing the application, with the attached letters. Please mention this issue in the agenda of your next PTA or PTO and CAC meeting.

If you have any questions regarding this matter, please contact me at 414-3632 or send me an email message at [drobertson@austin.isd.tenet.edu](mailto:drobertson@austin.isd.tenet.edu).

Thanks for your assistance with this request.

Enclosures

STAFF REPORT

ALCOHOLIC BEVERAGE WAIVER REQUEST

CASE NUMBER: SP-06-0405AW

NAME AND LOCATION OF RESTAURANT: Galaxy Café, 1000 West Lynn Street

NAME AND LOCATION OF SCHOOL WITHIN 300 FEET OF PROPOSED SALE OF ALCOHOLIC BEVERAGES: Matthews Elementary School, 1111 West 6<sup>th</sup> Street

ZONING: CS-MU-CO-NP

NEIGHBORHOOD PLAN: Old West Austin

APPLICANT: Kelly Chappell

REQUEST: The owner of Galaxy Café, Kelly Chappell, requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the Austin City Code because she intends to sell alcoholic beverages at her restaurant which is located 278' from a public school, Mathews Elementary, at 1111 West 6<sup>th</sup> Street.

Section 4-9-5(A) allows the City Council to waive the 300 foot distance requirement if they determine that the enforcement of the distance requirement in a particular instance:

- (1) *is not in the best interest of the public;*
- (2) *constitutes waste or the inefficient use of land or other resources;*
- (3) *creates an undue hardship on the applicant;*
- (4) *does not serve its intended purpose;*
- (5) *is not effective or necessary; or*
- (6) *for any other reason the 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.*

Written objections to the granting of the waiver have been received from Curtis E. Shaw, Director of Construction Management, Matthews Elementary School and Dan Robertson, Associate Director, Austin Independent School District.

Staff recommends denial of the waiver request.

## **RESOLUTION NO.**

**WHEREAS**, Kelly Chappell, owner of Galaxy Café, has filed an application for a waiver of Section 4-9-4(A) of the City Code which prohibits the sale of alcoholic beverages within 300 feet of a church, public school, or public hospital; and

**WHEREAS**, Galaxy Café, located at 1000 West Lynn Street, Austin, Texas, is within 300 feet of Mathews Elementary School, located at 1111 West 6<sup>th</sup> Street; and

**WHEREAS**, notice of the application and hearing for the waiver was provided in accordance with Section 4-9-5 of the City Code; and

**WHEREAS**, a public hearing concerning this proposed waiver was held by the City Council on September 28, 2006, in accordance with the provisions of Section 25-1-132 of the City Code; and

**WHEREAS**, written objections to the granting of the waiver have been received from Curtis E. Shaw, Director of Construction Management, Mathews Elementary School and Dan Robertson, Associate Director, Austin Independent School District; and

**WHEREAS**, the old West Austin Neighborhood Association has submitted a letter stating no objection to the granting of the waiver; and

**WHEREAS**, the City Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, has determined that the waiver request is in the best interest of the community; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

Kelly Chappell, owner of Galaxy Café, is granted a waiver from Section 4-9-4 of the City Code and is allowed to sell alcoholic beverages at 1000 West Lynn Street, Austin, Texas; and the waiver shall expire on the sale or transfer of the business to any other individual or entity, whether by lease or any other arrangement, on cessation of the business, or on revocation of the alcoholic beverage permits granted to Galaxy Café for this site.

**ADOPTED:** \_\_\_\_\_, 2006 **ATTEST:** \_\_\_\_\_

Shirley A. Gentry  
City Clerk