

**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Planning and Inspections, Planning Division

**AGENDA DATE:** Regular Agenda; Public Hearing: 2/5/2019

**CONTACT PERSON/PHONE:** Philip Etiwe, (915) 212-1553, EtiwePF@elpasotexas.gov  
Raul Garcia, (915)212-1643, Garciar1@elpasotexas.gov

**DISTRICT(S) AFFECTED:** 6

**SUBJECT:**

Discussion and action on a request from Edith Olexiuc for City Council to grant an exception from the prohibition of the sale of alcoholic beverages within three hundred feet of a public or private school for the property located at 12102 Montwood, and legally described as a portion Lot 1, Block 1, Loop Wood Subdivision, City of El Paso, El Paso County, Texas. **(District 6).**

**BACKGROUND / DISCUSSION:**

N/A

**PRIOR COUNCIL ACTION:**

There is no prior City Council action on this proposed amendment.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

N/A

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) N/A

**FINANCE:** (if required) N/A

**DEPARTMENT HEAD:** Philip F. Etiwe  
Planning and Inspections Department

  
\_\_\_\_\_

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**MOTION**

Motion made and second by City Council to grant an exception from the prohibition of the sale of alcoholic beverages within 300 feet of a public school requested from Edith Olexiuc, for the property located at 12102 Montwood Drive #B, and legally described as a portion of Lot 1, Block 1, Loop Wood Subdivision, City of El Paso, El Paso County, Texas.

City Council grants this exception after notice and public hearing and makes the following determination that the enforcement of the prohibition in this 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 an applicant;
4. Does not serve its intended purpose;
5. Is not effective or necessary; or
6. After consideration of the healthy, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

**APPROVED** on this \_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF EL PASO:**

**ATTEST:**

\_\_\_\_\_  
Dee Margo  
Mayor

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Russell T. Abeln  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Phillip F. Etive, Director  
Planning & Inspections Department



## Planning & Inspections Department

**Mayor**  
Dee Margo

**City Council**

*District 1*  
Peter Svarzbein

*District 2*  
Alexandra Anello

*District 3*  
Cassandra Hernandez

*District 4*  
Dr. Sam Morgan

*District 5*  
Isabel Salcido

*District 6*  
Claudia Ordaz Perez

*District 7*  
Henry Rivera

*District 8*  
Cissy Lizarraga

**City Manager**  
Tommy Gonzalez

### MEMORANDUM

**DATE:** January 15, 2019

**TO:** The Honorable Mayor and Council  
Tommy Gonzalez, City Manager

**FROM:** Raul Garcia, Interim-City Development Program Manager

**SUBJECT:** Appeal of Prohibition of Sale of Alcoholic Beverages –  
12102 Montwood #B

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Edith Olexiuc, owner of Wicked Pho restaurant, applied to the City for an alcoholic beverage license (LALC18-00197) and was denied because the proposed location at 12120 Montwood #B is within 300 feet of Montwood High School.

The Planning Division determined that:

- The subject property located at 12120 Montwood #B is within 300 feet of a public school; and,
- The location does not qualify for the license under any “grandfathering” provisions in the El Paso City Code.

The applicant was informed the Code prohibits the sale, storage or handling of alcoholic beverages for the purpose of sale in any zoning district where the place of business is located within three hundred feet of a church, public or private school, public hospital, day-care center or child-care facility, however, this section shall not apply where the applicant has approval in writing from the affected church, public or private school, public hospital, day-care center or child-care facility. The applicant was unable to obtain approval in writing from the child-care facility.

The applicant was informed the Code allows an exception to be granted by City Council from the prohibition of the sale of alcoholic beverages within 300 feet of a church, school, commercial day care or public hospital after making certain determinations listed in Title 20, Zoning, Supplemental Use Regulations, Alcoholic beverages, Section 20.10.060.B.7:

Planning & Inspections Department  
Philip F. Etiwe, Director  
City 3 | 801 Texas Ave | El Paso, Texas 79901

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**Mayor**  
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### City Council

*District 1*  
Peter Svarzbein

*District 2*  
Alexsandra Anello

*District 3*  
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*District 7*  
Henry Rivera

*District 8*  
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**City Manager**  
Tommy Gonzalez

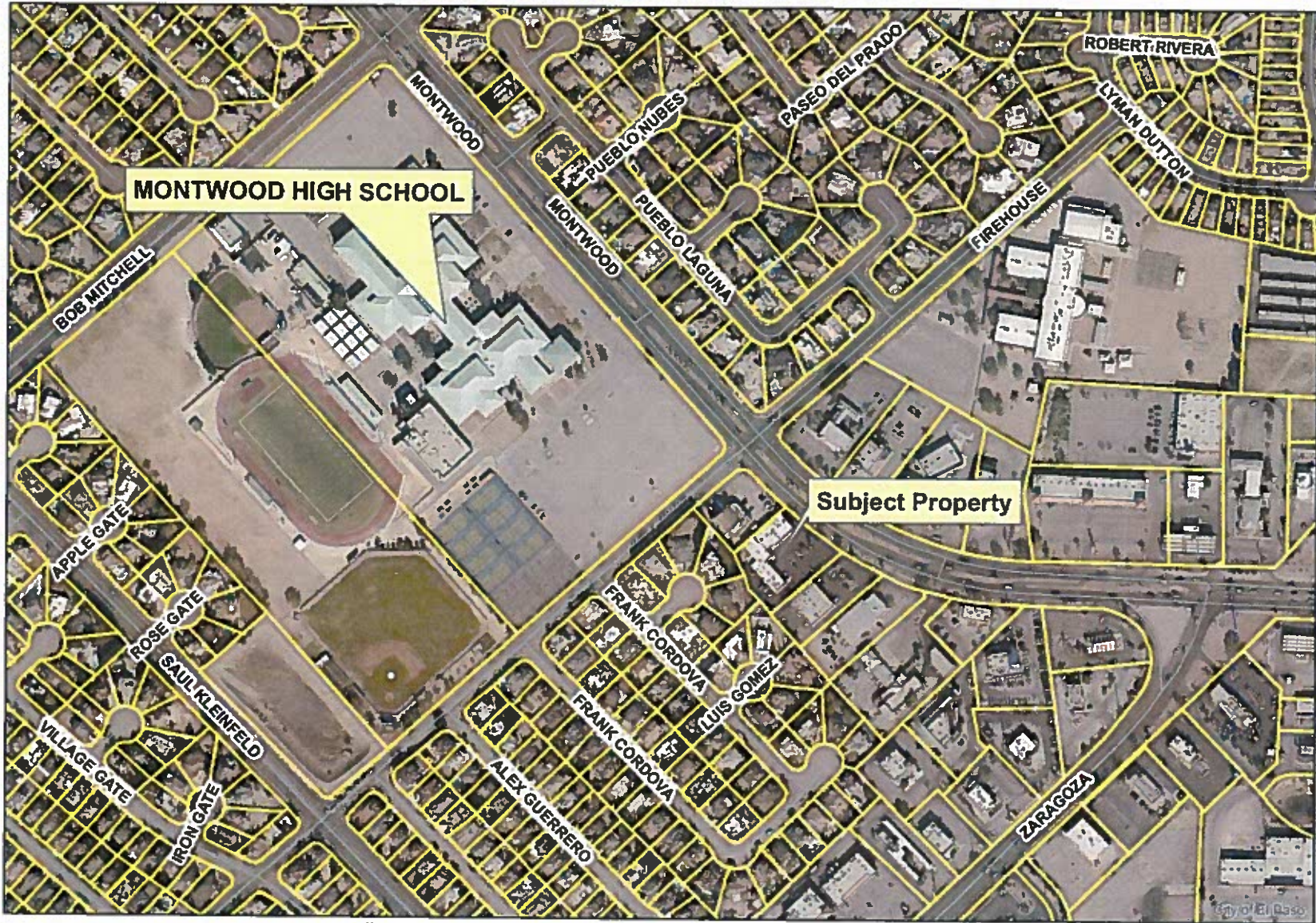
*The city council may grant an exception from prohibition of the sale of alcoholic beverages within three hundred feet of a church, school, commercial day car or public hospital after notice and public hearing if the council determines that the enforcement of the prohibition in a particular instance:*

- a. Is not in the best interest of the public;*
- b. Constitutes waste or the inefficient use of land or other resources;*
- c. Creates an undue hardship on an applicant;*
- d. Does not serve its intended purpose;*
- e. Is not effective or necessary; or*
- f. 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 is in the best interest of the community.*

The subject property is within 300 feet of a public school; there are no other day-care centers, child-care facilities, churches, public or private schools, or public hospitals within 300 feet of the subject property.

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