

RESOLUTION NO. 31392

A RESOLUTION APPROVING A NEW SPECIAL
EXCEPTIONS PERMIT ADDING PARTNERS FOR A LIQUOR
STORE LOCATED AT 705 SIGNAL MOUNTAIN ROAD.

WHEREAS, Hasmukh Patel, Kanaiyalai Patel, and Ishan Patel d/b/a Harry's Wine and Spirits have applied to operate a liquor store as a lessee of property located at 705 Signal Mountain Road owned by Marathon Reality Corporation; and

WHEREAS, the property located at 705 Signal Mountain Road is zoned M-1 Manufacturing and C-2 Convenience Commercial Zone which allows the operation of a liquor store upon issuance of a Special Exceptions Permit, as more particularly described in the attached report by the Chattanooga-Hamilton County Regional Planning Agency dated November 9, 2016;

NOW, THEREFORE,

SECTION 1. BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, that Hasmukh Patel, Kanaiyalai Patel, and Ishan Patel d/b/a Harry's Wine and Spirits are hereby granted a New Special Exceptions Permit for an existing liquor store on property located at 705 Signal Mountain Road, Tax Map No. 117J-B-010.

ADOPTED: November 29, 2022.

KCM/mem

Chattanooga-Hamilton County Regional Planning Agency
Proposed Liquor Store Site Review: 705 Signal Mountain Road (Suite 705)
11/09/2016

Based on Sec. 5-109(b) of Chattanooga City Code:

- (b) The planning staff of the Chattanooga-Hamilton County regional planning commission shall conduct an analysis of the proposed liquor store site which will include, but shall not be limited to, the following:
- (1) A land use survey of the surrounding development;
 - (2) Off-street parking and loading facilities;
 - (3) Proposed points of access and ease of ingress and egress;
 - (4) The lot, yard and open space requirements; and
 - (5) Whether a traffic hazard will be created.

Based on Sec. 5-109(c) of the Chattanooga City Code:

- (c) The executive director shall submit the findings of the staff of the Chattanooga-Hamilton County regional planning commission to the city council for consideration and action. This report is to include, but is not limited to, the following areas of concern:
- (1) The probable effect on the property adjacent to the site under consideration.
 - (2) The consistency of the proposal with the intent and purpose of this article to promote the public health, safety, morals and general welfare.
 - (3) Additional requirements which are needed in order to make the development more compatible with the surrounding land use.

The following are the RPA's key findings for this site:

1. The submitted site plan shows that the liquor store is in a portion of commercial center, anchored by a Food City, at the intersection of Signal Mountain Road and Mountain Creek Road.



2. The following comments are from the Chattanooga Department of Transportation:
 - There are no apparent transportation concerns based on the review of the application.
3. The probable effect on the property adjacent to the site under consideration.
 - RPA response:
 - a. 705 Signal Mountain Road/ Suite 705 (see map for lease space below) shares a commercial complex with a Food City, retail/offices and UPS store. The complex sits at the western side of the intersection of Signal Mountain Road and Mountain Creek Road. Nearby uses include residences to the northwest and west with commercial/retail uses along Signal Mountain Road and Mountain Creek Road (at this location).



- b. Upon review, the Chattanooga Department of Transportation has not identified any issues from the standpoint of access and loading.
- c. Based on Sec. 5-108 Location and signs for liquor stores, distance requirements for parks, places of worship, schools, day care centers and other liquor stores apply to properties zoned C-2 Convenience Commercial:

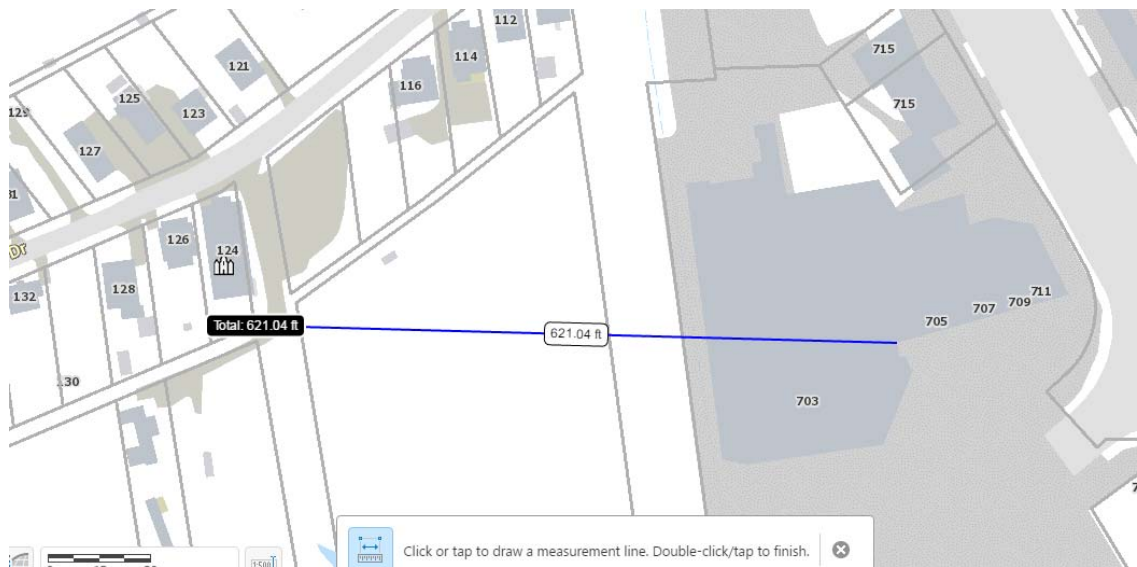
Sec. 5-108. - Location and signs for liquor stores.

(a) **No lot proposed for a liquor store site may be located within five hundred (500) feet from the nearest property line of a site which is used for the purpose of a recreational park (ornamental parks are not to be considered in this requirement), place of worship, school (an academic learning center whether public or private, from the level of nursery through twelfth grade), day care center or other liquor store.** Measurement shall be made from the nearest property line of the applicant's premises to the nearest property line of the above mentioned uses. Measurements for leased premises shall be measured from the property line of the applicant to the nearest property line of the above mentioned uses measured on a straight line basis. For purposes of this subsection, the applicants' property line on leased premises shall be construed to be the nearest point of a leasehold line.

(b) The distance prohibition set forth in Subsection (a) shall not apply to a retail license or permit for the sale of wine and/or high alcohol content beer as

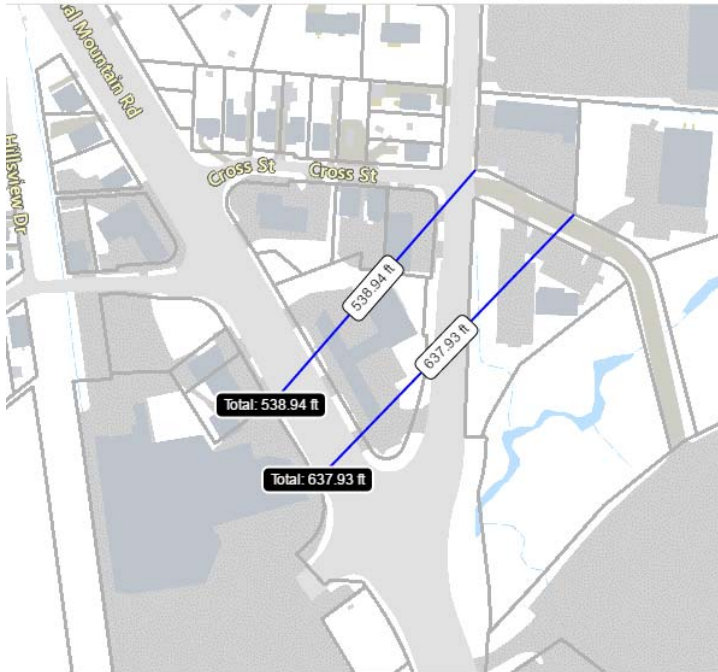
defined by T.C.A. § 57-3-101 within the area zoned C-3 Central Business District or within the area zoned pursuant to the Downtown Form-Based Code (City Code Chapter 38, Article XVI).

- An RPA field review did not show any recreational parks, schools, day care centers or other liquor stores within 500' of the proposed liquor store site as more specifically discussed below:
 - The Union Gospel Mission is located at 124 Signal Hills Drive. It appears from the website (<http://theuniongospelmission.org/>) that the address is used for religious services however the site is over 600' (as shown measured below using the online GIS map) from the proposed liquor store lease line. According to City Code, the applicants' property line on leased premises shall be construed to be the nearest point of a leasehold line.



- Within 500' west of the proposed liquor store is a parcel of land owned by the City of Chattanooga. The land was donated to the City and it was stated at the time of acceptance of the property that the land was "for the creation and implementation of the Mountain Creek Greenway." (Resolution 24615). The land is not developed, is not presently being used as a park, nor is it part of an actively planned greenway trail. The Office of the City Attorney has advised that the land does not qualify as a "recreational park" at this time and the distance requirement relating to recreational parks found at Code § 5-108 does not act as a bar to the location of the liquor store. Should the City property be used as a recreational park in the future, the liquor store could remain at the location as a grandfathered use.
- There is a liquor store at 800 Mountain Creek Road. Using the online GIS map to measure the distance, it is well outside the 500' buffer requirement from proposed liquor store lease line. According to City Code, the applicants' property line on leased premises shall be

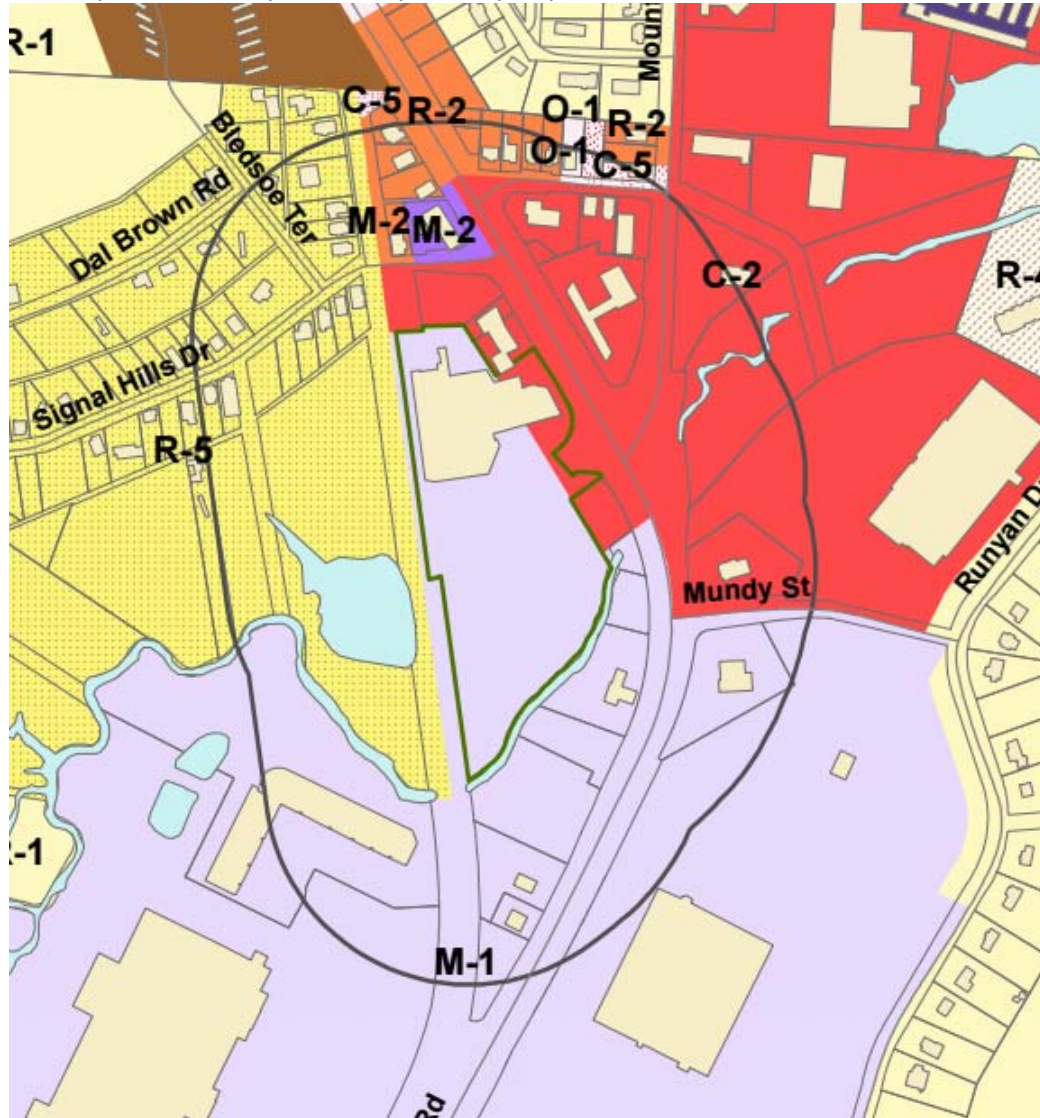
construed to be the nearest point of a leasehold line (the map below shows the more restrictive parcel line to parcel line measurement).



- o The State of Tennessee's child care locator shows the closest day care centers well beyond the 500' distance requirement:

Search Results
1. First Two Years Address: 336 West Midvale Avenue, Unit 13, Chattanooga, 37405 Phone: (423) 304-8275 Star Rating: 4.5
2. Red Bank Elementary SACC Program (E.) Address: 1100 MOUNTAIN CREEK ROAD, CHATTANOOGA, 37405 Phone: (423) 893-3530 Star Rating: 4.5
3. Red Bank Elementary Pre-K (E.) Address: 1100 MOUNTAIN CREEK RD, CHATTANOOGA, 37405 Phone: (423) 874-0917 Star Rating: 4.5
4. Chambliss Center @ Red Bank Elementary Address: 1100 Mountain Creek Road, Chattanooga, 37405 Phone: (423) 874-1917 Star Rating: 4.5

- 4. The consistency of the proposal with the intent and purpose of this article to promote the public health, safety, morals and general welfare.
 - RPA response:
 - a. The parcel that the lease site is on is zoned M-1 Manufacturing and C-2 Convenience Commercial (see zoning map below). Liquor stores are listed as a use permitted in those zones (permitted as special exceptions by City Council).



- 5. Additional requirements which are needed in order to make the development more compatible with the surrounding land use.
 - RPA response:
 - a. RPA has no recommendations on additional requirements.