JD: 4/16/15
Item No. 25

AN ORDINANCE 2015-04-16-0320

WAIVING THE REQUIREMENTS OF SECTION 4-6(c)(1) AND 4-6(c)(3), AND A PORTION OF 4-6(e)(1) OF THE CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES ON LOT 23, BLOCK 1, NCB 10934 LOCATED AT 2623 SE MILITARY DR. FOR ON-PREMISE CONSUMPTION WITHIN THREE-HUNDRED FEET OF SEIDEL LEARNING CENTER, A SAN ANTONIO INDEPENDENT SCHOOL DISTRICT PUBLIC EDUCATIONAL INSTITUTION LOCATED IN COUNCIL DISTRICT 3.

* * * * *

WHEREAS, Section 109.33 of the Texas Alcoholic Beverage Code authorizes the governing board of an incorporated city to enact regulations prohibiting the sale of alcoholic beverages if the place of business is within three hundred feet of any church, public school or public hospital as measured in a direct line from the property line of the public or private school to the property line of the place of business; and

WHEREAS, Section 109.33 of the Texas Alcoholic Beverage Code authorizes the governing body of an incorporated city to allow variances to the regulation if the governing body determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the governing board, 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; and

WHEREAS, pursuant to Section 109.33 (a)(1) of the Texas Alcoholic Beverage Code, Chapter 4 of the City Code of the City of San Antonio prohibits the sale of alcoholic beverages if the place of business is within three hundred feet of any church, public school or public hospital; and

WHEREAS, the subject property is situated within three hundred (300) feet of the nearest property line of Seidel Learning Center, a public educational institution within the San Antonio Independent School District, thus, making the sale of alcoholic beverages a violation; and

WHEREAS, Ordinance No. 88724, passed and approved on October 22, 1998, amended the City Code of the City of San Antonio adopting this distance requirement in Chapter 4, Article I, Sec. 4-6, and established a procedure for the granting of a variance to the prohibition; and

WHEREAS, staff recommends any approval of the variance request contain the conditions that the authorization for the sale of alcoholic beverages shall apply only to the proposed "Restaurant" and not transfer to different land uses and that such authorization shall terminate in the event of non-operation or non-use of the identified establishment for a period of twelve (12) or more successive calendar months; **NOW THEREFORE,**

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The requirements of Sections 4-6(c)(1) and 4-6(c)(3), and a portion of 4-6(e)(1) prohibiting on-premise consumption pursuant to the City Code of the City of San Antonio are waived and the variance request of BACH Dining – City Base, LLC, Applicant, to sell alcoholic beverages for on-premise consumption as a "Restaurant" on Lot 23, Block 1, NCB 10934 located at 2623 SE Military Dr. as shown on the accompanying map labeled "Attachment 1," within three hundred (300) feet of Seidel Learning Center is hereby granted. This variance to sell alcoholic beverages for on-premise consumption is based on the following conditions: (a) that this authorization shall not transfer to different uses; and (b) that such authorization shall terminate in the event of non-operation or non-use for a period of twelve or more successive calendar months.

SECTION 2. This Ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

PASSED AND APPROVED this 16th day of APRIL, **2015.**

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

ON BEHALF OF

Martha G. Sepeda, Acting City Attorney

Agenda Item:	**25 (in consent vote: 24, 25, Z-1, Z-2, Z-3, Z-4, P-1, Z-5, Z-7, P-3, Z-11)**
Date:	04/16/2015
Time:	02:20:30 PM
Vote Type:	Motion to Approve
Description:	Alcohol Variance # AV2015002 (District 3): An Ordinance granting a variance to City Code Section 4-6 and waiving the requirements of Sections 4-6(c)(1) and 4-6(c)(3) of the City Code and authorizing the sale of alcoholic beverages on Lots 23, Block 1, NCB 10934 located at 2623 SE Military Highway for on premise consumption within three-hundred (300) feet of the Seidel Learning Center, a public educational institution located in the San Antonio Independent School District in Council District 3. (Continued from April 2, 2015)
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Trevino	District 1		x			x	
Alan Warrick	District 2		x				x
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7	x					
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				