

AN ORDINANCE 2014 - 10 - 16 - 0 80 5

**WAIVING THE REQUIREMENTS OF SECTIONS 4-6(C)(1), 4-6(C)(2), 4-6(C)(3), AND 4-6(D)(1) OF THE CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES AT 1017 NORTH FLORES STREET, SUITE 100, FOR ON-PREMISE CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF THE STEPHEN F. AUSTIN ACADEMY, A PUBLIC EDUCATIONAL INSTITUTION IN THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT, LOCATED IN COUNCIL DISTRICT 1.**

\* \* \* \* \*

**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 Stephen F. Austin Academy, 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 "Food Service Establishment" 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**,

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

**SECTION 1.** The requirements of Sections 4-6 (c) (1), 4-6 (c) (2), 4-6 (c) (3), and 4-6(d)(1) of the City Code of the City of San Antonio are waived and the variance request of Veggie SA Inc., Owner, to sell alcoholic beverages for on-premise consumption as a "Food Service Establishment" on Lot 5 and the South Irregular 67.44 feet of Lot 4, Block 1, NCB 477, currently addressed at 1017 North Flores Street, Suite 100, as shown on Exhibit A, incorporated herein for all purposes, within three hundred (300) feet of Stephen F. Austin Academy 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 land 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 October, 2014.

  
For M A Y O R  
Ivy R. Taylor

**ATTEST:**

  
Leticia M. Vacek, City Clerk

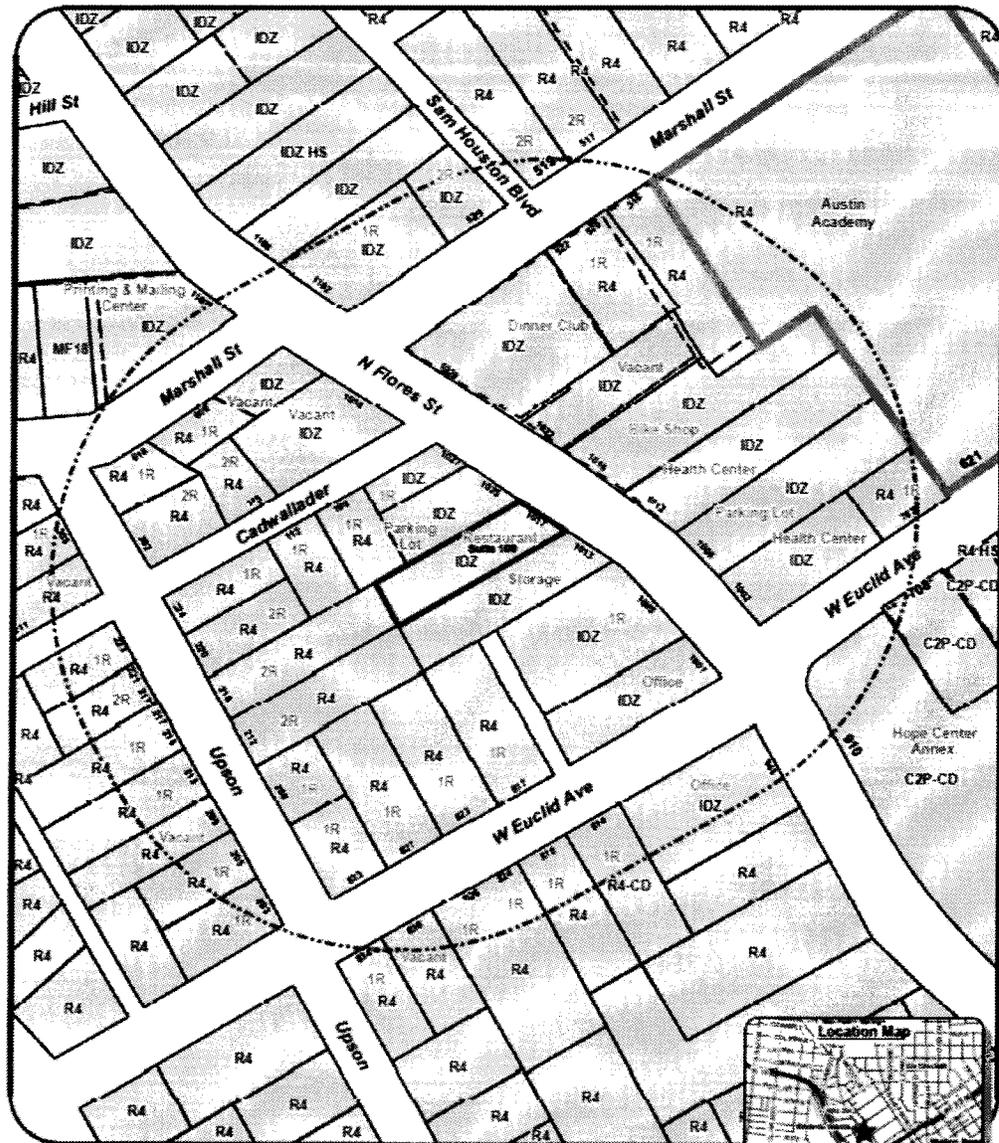
**APPROVED AS TO FORM:**

  
Robert F. Greenblum, City Attorney

<b>Agenda Item:</b>	25
<b>Date:</b>	10/16/2014
<b>Time:</b>	02:18:35 PM
<b>Vote Type:</b>	Motion to Appr w Cond
<b>Description:</b>	An Ordinance waiving the requirements of Sections, 4-6(c)(1), 4-6(c)(2), 4-6(c)(3) and 4-6(d)(1) of the City Code and authorizing the sale of alcoholic beverages at 1017 North Flores Street, Suite 100, for on-premise consumption within three-hundred (300) feet of the Stephen F. Austin Academy, a San Antonio Independent School District public educational institution, located in Council District 1.
<b>Result:</b>	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor	x					
Diego Bernal	District 1		x			x	
Keith Toney	District 2		x				
Rebecca Viagran	District 3		x				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				

**EXHIBIT A**



**Variance Request V2014008**  
**1017 N. Flores St.**  
 Council District: 1  
 School District: San Antonio I.S.D.  
 Scale: 1" approx. = 120 Feet  
 Subject Property Legal Description(s): NCB 0477 - BLOCK 001 - LOT 5 & 3 IRR 67.44 ft of 4 ARB A16 (WINSLOW SUB)

**Legend**  
 Subject Properties (0.172 Acres)  
 300' Notification Area  
 Current Zoning (TEXT)  
 Requested Zoning Change (TEXT)  
 100-Year DFIRM Floodplain  
 Single Family Residential (R)

Note: All Current and Requested Zoning includes AHOD (Airport Hazard Overlay District)

Development Services Dept  
 City of San Antonio  
 09/18/2014 - R. Martinez