JD: 11/19/2015
Item No. 27

AN ORDINANCE 2015-11-19-0978

WAIVING THE REQUIREMENTS OF SECTIONS 4-6(c)(1), 4-6(c)(2), 4-6(c)(3), 4-6(c)(4), 4-6(d)(1), 4-6(d)(6), AND 4-6(e)(1) OF THE CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES ON THE WEST 100 FEET OF THE SOUTH 150 FEET OF LOT 22, BLOCK 2, NCB 8243, LOCATED AT 5719 WEST COMMERCE STREET FOR OFF-PREMISE CONSUMPTION WITHIN THREE-HUNDRED FEET OF ST. JOHN BOSCO ELEMENTARY SCHOOL, A PRIVATE EDUCATION INSTITUTION IN THE EDGEWOOD INDEPENDENT SCHOOL DISTRICT, LOCATED IN COUNCIL DISTRICT 5.

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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 St. John Bosco Elementary School, 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 be limited to a "convenience store", that alcohol sales shall not exceed 30% of the total revenues of the establishment, that only beer and wine shall be sold for off-premise consumption, and that alcohol sales shall not be permitted between the hours of 12:00 a.m. and 6:00 a.m., that such approval not transfer to different owners or 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), 4-6(c)(4), 4-6(d)(1), 4-6(d)(6), and 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 Muzafar Iqbal, Applicant, to sell alcoholic beverages for off-premise consumption as a "convenience store", on the west 100 feet of the south 150 feet of Lot 22, Block 2, NCB 8243, located at 5719 West Commerce Street as shown on the accompanying map labeled "Attachment 1," within three hundred (300) feet of St. John Bosco Elementary School, is hereby granted. This variance to sell alcoholic beverages for off-premise consumption is based on the following conditions: (a) that this authorization shall be limited to the Convenience Store; (b) that alcohol sales shall not exceed 30% of the total revenues for this establishment; (c) that only beer and wine shall be sold for off-premise consumption; (d) that alcohol sales shall not be permitted between the hours of 12:00 a.m. and 6:00 a.m.; (e) that this authorization shall not transfer to different owners or different uses; (f) 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 19th day of NOVEMBER, **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:	**27 (in consent vote: 27, 29, P-1, Z-1, P-2, Z-2, Z-4, Z-5, Z-6, P-3, Z-7, Z-8, Z-10, Z-11, Z-12, Z-13, Z-14, Z-15, Z-16, Z-17, Z-18, P-4, Z-20, Z-22, P-5, Z-24)**
Date:	11/19/2015
Time:	02:34:55 PM
Vote Type:	Motion to Approve
Description:	ALCOHOL VARIANCE # AV2015009 (Council District 5): An Ordinance granting a Variance to City Code Section 4-6 and waiving the requirements of Sections 4-6(c)(1), 4-6(c)(2), 4-6(c)(3), 4-6(c)(4), 4-6(d)(1), 4-6(d)(6) and 4-6 (e)(1) of the City Code and authorizing the sale of alcoholic beverages on the West 100 feet of the South 150 feet of Lot 22, Block 2, NCB 8243, located at 5719 West Commerce Street for off-premise consumption within three-hundred (300) feet of St. John Bosco Elementary School, a private education institution in the Edgewood Independent School District.
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				
Alan Warrick	District 2		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			x	
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				x
Michael Gallagher	District 10		x				