AZJ:gg
10/16/14
Item No. 24.

AN ORDINANCE 2014-10-16-0804

WAIVING THE REQUIREMENTS OF SECTIONS 4-6(C), 4-6(D)(1), 4-6(D)(6) AND PORTIONS OF 4-6(E)(1) OF THE CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES ON LOT 1, BLOCK 61, NCB 18534 AND PARCEL 8, NCB 17636, FOR OFF-PREMISE CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF WZ BURKE ELEMENTARY SCHOOL, A PUBLIC EDUCATIONAL INSTITUTION IN THE NORTHSIDE INDEPENDENT SCHOOL DISTRICT, LOCATED IN COUNCIL DISTRICT 6.

* * * * *

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 WZ Burke Elementary, a public educational institution within the Northside 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 "Grocery/Retail Store" 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), 4-6(d)(1), 4-6(d)(6) and the portions of 4-6 (e)(1) prohibiting off-premise consumption pursuant to the City Code of the City of San Antonio are waived and the variance request of FCS Creamer Ltd c/o First City Financial Corp, Owner, to sell alcoholic beverages for off-premise consumption as a "Grocery/Retail Store" located on Lot 1, Block 61, NCB 18534 and Parcel 8, NCB 17636, as shown on attached **Exhibit A**, incorporated herein for all purposes, within three hundred (300) feet of WZ Burke 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 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**.

M A Y O R
for **Ivy R. Taylor**

ATTEST:

Leticia M. Vacek, City Clerk

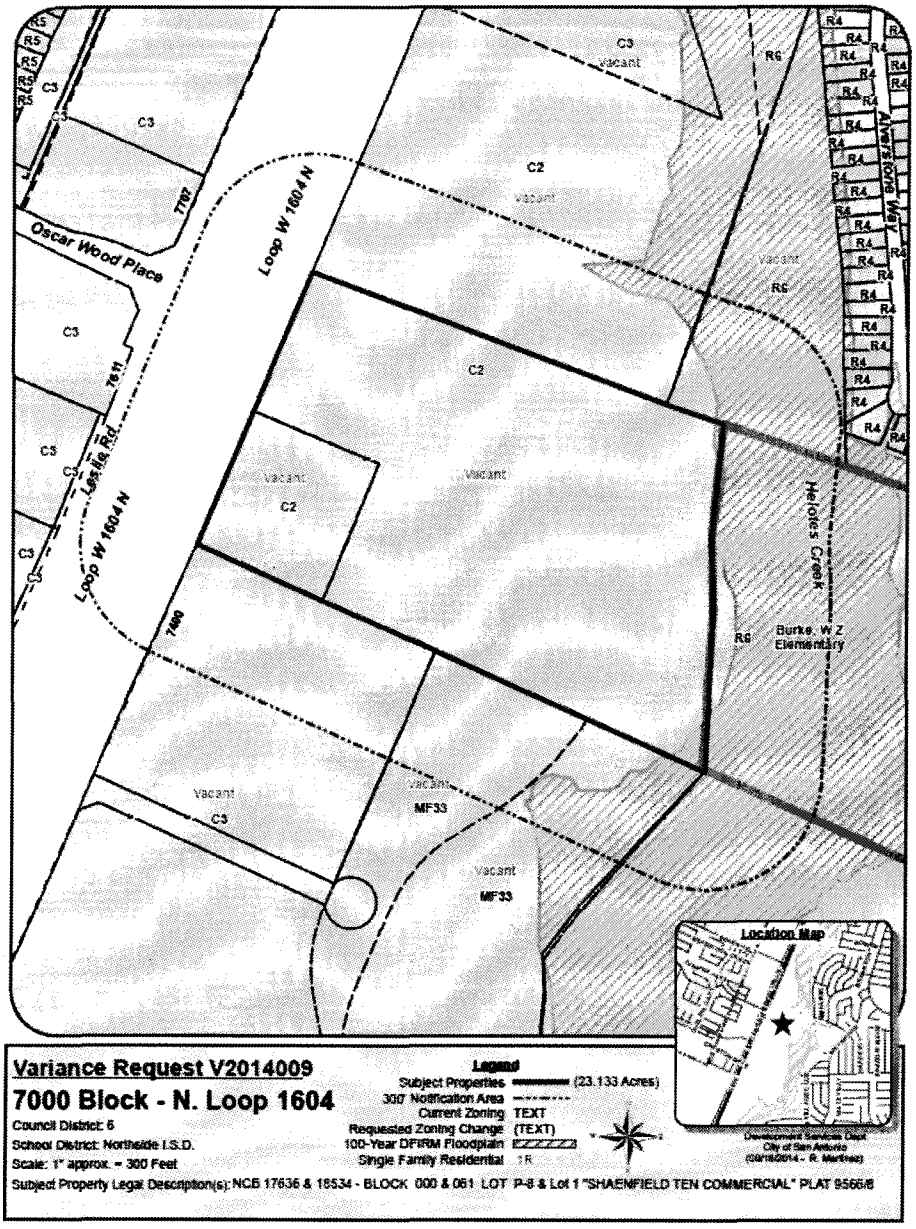
APPROVED AS TO FORM:

for **Robert F. Greenblum, City Attorney**

Agenda Item:	**24**
Date:	10/16/2014
Time:	02:08:27 PM
Vote Type:	Motion to Appr w Cond
Description:	An Ordinance waiving the requirements of Sections 4-6(c), 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 Lot 1, Block 61, NCB 18534 and Parcel 8, NCB 17636, located along the 7000 Block of West Loop 1604 North, for off-premise consumption within three-hundred (300) feet of WZ Burke Elementary School, a Northside Independent School District public educational institution located in Council District 6.
Result:	Passed

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

EXHIBIT A


Variance Request V2014009
7000 Block - N. Loop 1604
Council District: 6
School District: Northside I.S.D.
Scale: 1" approx. = 300 Feet
Legend
Subject Properties (23.133 Acres)
300' Notification Area
Current Zoning TEXT
Requested Zoning Change (TEXT)
100-Year DFIRM Floodplain
Single Family Residential 1R
Subject Property Legal Description(s): NCB 17636 & 18534 - BLOCK 000 & 061 LOT P-8 & Lot 1 "SHAENFIELD TEN COMMERCIAL" PLAT 9566/8
Location Map
Development Services Dept
City of San Antonio
(02/18/2014 - R. Martinez)
Oscar Wood Place
Loop W 1604 N
Leslie Rd
Helotes Creek
Burks, W Z Elementary
C3
C2
R6
R4
R5
Vacant
MF33
7707
7611
7600