

AN ORDINANCE 2011-10-20-0875

WAIVING THE REQUIREMENTS OF SECTIONS 4-6 (C), 4-6 (D) (6), AND 4-6 (E) (1) OF THE CITY CODE AND AUTHORIZING A VARIANCE REQUEST TO SELL ALCOHOLIC BEVERAGES WITHIN THREE HUNDRED FEET OF THE NORTH EAST ALTERNATIVE CENTER, A PUBLIC EDUCATIONAL INSTITUTION LOCATED IN COUNCIL DISTRICT 1.

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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; 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) 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 formerly known as Bar 11 is situated within three hundred (300) feet of the nearest property line of the North East Alternative Center located within the North East 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, Part 2, Chapter 4, Article I, Sec. 4-6, and established a procedure for the granting of a variance to the prohibition; and

WHEREAS, staff recommends approval of the variance with the condition that the authorization for the sale of alcoholic beverages shall not transfer to future property owners or to different land uses and that such authorization shall terminate in the event of non-operation or non-use for a period of twelve 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) (6), and 4-6 (e) (1) of the City Code of the City of San Antonio are waived and the variance request of Rector Plaza One Investors Ltd. at 126 West Rector Suite 136 is hereby granted. This variance is granted with the conditions that the authorization for the sale of alcoholic beverages shall not transfer to future proprietors or to different uses and that such authorization shall terminate in the event of non-operation or non-use of the identified use for a period of twelve (12) or more successive calendar months.

SECTION 2. The Director of Development Services is hereby authorized to take all necessary action in order to ensure compliance with the determination made herein.

SECTION 3. 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 20th day of October, 2011.



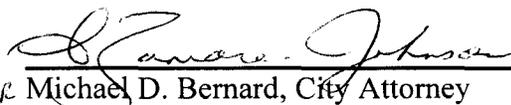
M A Y O R
Julián Castro

ATTEST:

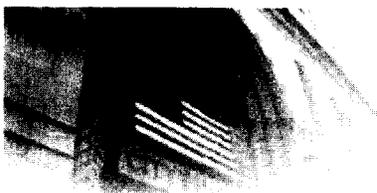


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

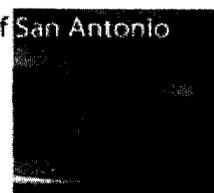


Michael D. Bernard, City Attorney



Request for
COUNCIL
ACTION

City of San Antonio



Agenda Voting Results - 38

Name:	38						
Date:	10/20/2011						
Time:	02:20:05 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance waiving the requirements of Sections 4-6(C), 4-6 (D)(6), and 4-6(E)(1) of the City Code and authorizing a Variance request to sell alcoholic beverages within three hundred feet of the North East Alternative Center, a Public Educational Institution located in Council District 1.						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x			x	
Ivy R. Taylor	District 2		x				x
Jennifer V. Ramos	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5	x					
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				