

AN ORDINANCE 2013 - 11 - 07 - 0767

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 ON 0.54 ACRES OUT OF LOTS 1-4, BLOCK 1, NCB 8347 ADDRESSED AS 838 EAST BANDERA ROAD, FOR OFF-PREMISE CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF JAMES MADISON ELEMENTARY SCHOOL, A PUBLIC SCHOOL, LOCATED IN COUNCIL DISTRICT 7.

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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 is situated within three hundred (300) feet of the nearest property line of James Madison Elementary School, a public school 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, Part 2, Chapter 4, Article I, Sec. 4-6, and established a procedure for the granting of a variance to the prohibition; **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(d)(6) and 4-6 (e)(1) of the City Code of the City of San Antonio are waived and the variance request for the property located on Lots 1-4, Block 1, NCB 8347 currently addressed as 838 East Bandera Road for off-premise consumption 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 future proprietors, future property owners, or to different land uses; and (b) 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.

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 7th day of November, 2013.

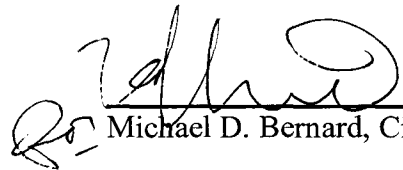

M A Y O R
Julián Castro

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Michael D. Bernard, City Attorney

Agenda Item:	38
Date:	11/07/2013
Time:	02:26:08 PM
Vote Type:	Motion to Appr w Cond
Description:	An Ordinance waiving the variance requirements of Section 4-6(c), waiving Section 4-6(d)(6) and 4-6(e) (1) of the City Code and authorizing a variance request to sell alcoholic beverages at 838 Bandera Road for off-premise consumption within three-hundred (300) feet of James Madison Elementary School, a Public Educational Institution, located in Council District 7.
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	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				
Carlton Soules	District 10		x				