

ORDINANCE 2018-08-16-0637

**WAIVING REQUIREMENTS OF § 4-6 OF THE CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES ON 1.065 ACRES OUT OF NCB 782, LOCATED AT 812 SOUTH ALAMO STREET, FOR ON-PREMISE AND OFF-PREMISE CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF BONHAM ELEMENTARY SCHOOL, A PUBLIC EDUCATION INSTITUTION IN THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT IN COUNCIL DISTRICT 1.**

\* \* \* \* \*

**WHEREAS**, § 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**, § 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**, Ordinance No. 88724, passed and approved on October 22, 1998, amended the City Code of the City of San Antonio by adopting the distance requirement in Chapter 4, Article I, §. 4-6, and established a procedure for the granting of a variance to the prohibition; and

**WHEREAS**, Kevin Covey for Gray Street, LLC., Applicant, has requested a waiver and variance of the requirements of City Code Chapter 4, §4-6, for the sale of alcoholic beverages for on-premise and off-premise consumption within three hundred (300) feet of the Bonham Elementary School, a public education institution in the San Antonio Independent School District on 1.065 acres out of NCB 782, located at 812 South Alamo Street, a description of the property is attached as **Exhibit "A"** and made a part hereof and incorporated herein for all purposes; 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 the hours prescribed by the Texas Alcoholic Beverage Commission 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 §§ 4-6 (c) (1), 4-6 (c) (2), 4-6(c) (3), 4-6 (c) (4), and 4-6 (d) (1) to provide documentation from Texas Alcoholic Beverage Commission (establishing that an alcoholic beverage license had been issued for the location where the variance is sought and that the date of expiration of the license was less than two years before the date of the variance request), are hereby waived.

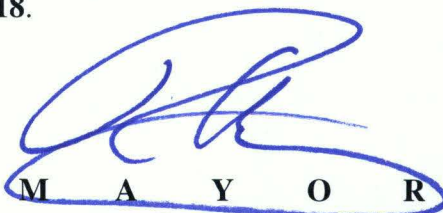
**SECTION 2.** The request of Applicant for a variance to City Code Chapter 4, §4-6(e) (1) to sell alcoholic beverages for on-premise and off-premise consumption on 1.065 acres out of NCB 782, located at 812 South Alamo Street, within three hundred (300) feet of the Bonham Elementary School, is hereby granted.

**SECTION 3.** The request of Applicant for a variance to the requirement to limit the sale of on-premise consumption of alcoholic beverages to no more than thirty (30) percent of the annual gross revenues of the establishment and to the annual submission requirements for verification of thirty (30) percent of the annual gross revenues in §4-6 (d) (6) is hereby granted.

**SECTION 4.** This variance to sell alcoholic beverages for on-premise and off-premise consumption is based on the following conditions: (a) that this authorization shall be limited to a food hall: to include food service establishment(s) (without cover charge 3 or more days per week), wine boutique(s), gift shop(s), grocery store(s), retail variety store(s) and/or mobile food court(s), (b) the sale of alcoholic beverages shall be limited to the hours prescribed by the Texas Alcoholic Beverage Commission, and (c) that such authorization shall terminate in the event of non-operation or non-use for a period of twelve or more successive calendar months.

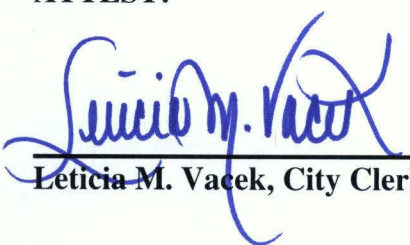
**SECTION 5.** This Ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

**PASSED AND APPROVED** this 16<sup>th</sup> day of **August, 2018.**




M A Y O R  
Ron Nirenberg

**ATTEST:**



\_\_\_\_\_  
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**



For \_\_\_\_\_  
Andrew Segovia, City Attorney

<b>Agenda Item:</b>	27 ( in consent vote: 27, Z-3, Z-4, Z-5, Z-6, P-2, Z-7, P-4, Z-11, Z-14, Z-15, P-5, Z-18, Z-19 )						
<b>Date:</b>	08/16/2018						
<b>Time:</b>	02:05:32 PM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	ALCOHOL VARIANCE # AV2018008 (Council District 1): Ordinance waiving the application requirements of City Code 4-6 and granting a variance authorizing the sale of alcoholic beverages on 1.065 acres out of NCB 782, located at 812 South Alamo Street for on-premise and off-premise consumption within three-hundred (300) feet of Bonham Elementary School, a public education institution located within the San Antonio Independent School District.						
<b>Result:</b>	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x				x
William Cruz Shaw	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x			x	
Clayton H. Perry	District 10		x				



METES AND BOUNDS DESCRIPTION  
FOR A  
1.065 ACRE TRACT OF LAND

Being a 1.065 acre tract of land situated in San Antonio, Bexar County, Texas, and being out of Lots 1, 2, and 3, Block 4, New City Block (N.C.B.) 782, as recorded in Volume 7787, Page 63, of the Official Public Records of Bexar County, Texas, a portion of Lots 3 and 4, Block 4, N.C.B. 782, as recorded in Volume 5883, Page 792, of the Official Public Records of Bexar County, Texas, Lot A-2, a.k.a. Lot 10, Block 4, N.C.B. 782, and Lot 17, Block 4, N.C.B. 782, as recorded in Volume 9511, Page 49, of the Deed and Plat Records of Bexar County, Texas, and said 1.065 acre tract of land being more particularly described as follows:

BEGINNING at a point at the intersection of the South Right-of-Way (R.O.W.) line of South Alamo Street and the East R.O.W. line of South St. Mary's Street, for the Northwest corner of this herein described tract of land;

THENCE with the South R.O.W. line of said South Alamo Street, N 46° 07' 26" E, a distance of 56.31 feet to a point for an angle point;

THENCE departing the South R.O.W. line of said South Alamo Street, S 16° 47' 04" E, a distance of 73.99 feet to an angle point;

THENCE N 71° 54' 56" E, a distance of 113.80 feet to a point for an angle point, said point being along the West R.O.W. line of South Presa Street;

THENCE with the West R.O.W. line of said South Presa Street, S 16° 55' 04" E, a distance of 201.00 feet to a point for an angle point;

THENCE departing the West R.O.W. line of said South Presa Street, S 80° 03' 08" W, a distance of 95.04 feet to an angle point, said point also being the Northeast corner of said Lot 17;

THENCE S 16° 47' 04" E, a distance of 170.30 feet to a point for an angle point, said point also being the Southeast corner of said Lot 17;

THENCE S 72° 45' 41" W, a distance of 70.00 feet to an angle point, said point also being the Southwest corner of said Lot 17, and being along the East R.O.W. line of said South St. Mary's Street;

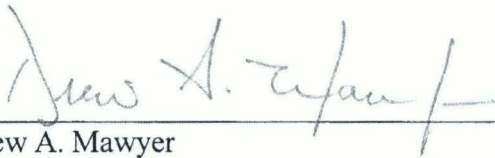
Exhibit "A"

THENCE with the East R.O.W. line of said South St. Mary's Street, N 16° 47' 04" W, a distance of 406.31 feet to the POINT OF BEGINNING, and containing 1.065 acres of land, more or less.

"This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

Bearings based on deed recorded in Volume 16046 Page 865 of the Official Public Records of Bexar County, Texas.

August 7<sup>th</sup> 2018



Drew A. Mawyer  
Registered Professional Land Surveyor No. 5348  
TBPLS Firm Registration #10191500  
5151 W SH 46, New Braunfels, Texas, 78132  
BRD233- 812 ALAMO- 1.065 AC POLITICAL M&B



Exhibit "A"