

THIS IS A PROPOSED DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED ORDINANCE OR
RESOLUTION ADOPTED BY THE CITY COUNCIL.

AN ORDINANCE

WAIVING THE REQUIREMENTS OF SECTIONS 4-6(c)(1-4), 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 LOTS 2, AND 3, BLOCK 1, NCB 8347, LOCATED AT 838 BANDERA ROAD, FOR OFF-PREMISE CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF MADISON ELEMENTARY SCHOOL, A PUBLIC EDUCATION INSTITUTION LOCATED IN THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT, 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 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 it 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 Madison Elementary School, a public education institution located in the San Antonio Independent School District; 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 be limited to beer and wine, sold for off-premise consumption; that such approval shall not transfer to different owners or different land uses; that such authorization shall

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Item No.

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; that alcohol sales for off-premise consumption shall only be permitted between the hours of 12:00 a.m. (midnight) and 7:00 a.m., Monday – Friday, 1:00 a.m. – 7 a.m. on Saturday, and 12:00 a.m. (midnight) – 12 p.m. (noon) on Sunday;
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), 4-6(d)(1), 4-6(d)(6) and 4-6(e)(1), prohibiting sales of alcohol for off-premise consumption pursuant to the City Code of San Antonio, Texas, Chapter 4 are waived and the variance request of BBRH, LLC., applicant, to sell alcoholic beverages for off-premise consumption, on Lots 2, and 3, Block 1, NCB 8347, located at 838 Bandera Road, as shown on “**Attachment 1**,” within three hundred (300) feet of the Madison Elementary School, a public education institution located in the San Antonio Independent School District, 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 Jack’s Convenience Store; (b) that alcohol sales will be for beer and wine for off-premise consumption only; (c) that this authorization shall not transfer to different owners or different land uses; (d) that such authorization shall terminate in the event of non-operation or non-use for a period of twelve or more successive calendar months; (e) that no alcohol will be sold between the hours of 12:00 a.m. (midnight) and 7:00 a.m., Monday – Friday, 1:00 a.m. – 7 a.m. on Saturday, and 12:00 a.m. (midnight) – 12 p.m. (noon) on Sunday;

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 15th day of February, 2018.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Andrew Segovia, City Attorney