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From: Kevin Lungwitz [<mailto:Kevin@LungwitzLaw.com>]

Sent: Wednesday, July 18, 2012 3:16 PM

To: Walker, Susan; Kevin@LungwitzLaw.com

Subject: Email from austintexas.gov: SPC-2012-0068AW

This message is from Kevin Lungwitz. Dear Ms. Walker,

I left you a voice mail today concerning this matter. Here is the content of an email I sent to all council members today. Please feel free to contact me. Thank you.

Dear Council Members,

I write on behalf of the Faith Presbyterian Child Development Center (CDC) at 1314 Oltorf, in opposition to the alcohol variance requested by Speedy Stop at its adjacent property at 1320 Oltorf. The case number is SPC-2012-0068AW.

The Faith CDC is a duly licensed, child-care facility as defined by the Texas Human Resources Code. It has been in continuous operation at this location for over 40 years. The Faith CDC is NAEYC accredited, the highest accreditation possible, and one that eludes many child-care facilities. Its mission is to serve low-income families, and it does this by offering affordable tuition on a sliding scale.

We are grateful that city staff is recommending the denial of this variance application based on the proximity of the Speedy Stop to Travis High School. We agree that on this basis alone, the variance must be denied. However, city staff makes no mention of the Faith CDC as another protected entity, perhaps confusing it with the church whose campus it shares and whose proximity to the Speedy Stop is measured differently under the Texas Alcoholic Beverage Code.

TABC Sec. 109.33 says the 300 foot measurement for a church is "along the property lines of the street fronts and from front door to front door." This seems to extend the distance for a church. However, a public school is measured, "in a direct line from the property line of the ... school to the property line of the place of business..." So, it is much easier for a public school to be within the protected layer - thus, the inclusion of Travis High School as a protected entity.

Now for the measurement from the Faith CDC to the Speedy Stop: TABC Sec. 109.331 specifically applies to child-care facilities. It says, "the provisions of Section 109.33 relating to a public school also apply to a day-care center and a child-care facility." So, the measurement techniques are the same - 300 feet across the property lines. The Faith CDC shares the property line with the Speedy Stop and like Travis High School, is a protected entity.

It is for this reason, among many others, that we object to this variance application, and respectfully urge the Council to deny it.

Sincerely,

Kevin F. Lungwitz
Attorney for Faith CDC and Faith Presbyterian Church

Lungwitz & Lungwitz, P.C.
3005 S. Lamar Blvd.
Suite D-109-362
Austin, Texas 78704-4785
P. 512.461.0188
F. 866.739.7138