



**Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

AGENDA ITEM NO.: 47
AGENDA DATE: Thu 01/29/2004
PAGE: 1 of 1

SUBJECT: Conduct a public hearing to consider a request for a waiver from the minimum distance requirement of City Code Section 4-9-4(A) between a proposed bar at 121 E. 5th Street and a school, American Youthworks, located at 216 E. 4th Street.

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Watershed Protection and **DIRECTOR'S**
DEPARTMENT:Development Review **AUTHORIZATION:** Joe Pantalion

FOR MORE INFORMATION CONTACT: Luci Gallahan, 974-2669; Martha Vincent, 974-3371

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

The applicant, Luis Jimenez, owner of Truman's Bar, requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the Austin City Code because his bar is located 120 feet from a public school, American Youthworks, at 216 E. 4th Street, which is within the 300 foot minimum distance requirement.

Section 4-9-5(A)(1) allows the City Council to waive the 300 foot distance requirement if they determine that enforcement of the distance requirement in a particular instance:

- (a) is not in the best interest of the public;
- (b) constitutes waste or the inefficient use of land or other resources;
- (c) creates an undue hardship on an applicant
- (d) does not serve its intended purpose
- (e) is not effective or necessary; or
- (f) for any other reason the City Council, 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.

Section 4-9-5(B)(2) provides that the City Council may consider a written consent to the waiver of the 300 foot distance requirement provided by each church, public school, public hospital, day-care center or child-care facility within 300 feet of the proposed place of business to be sufficient justification for the waiver. Written consent to allow the waiver has been received from Richard H. Halpin, Founder/CEO of American Youthworks.

STAFF REPORT

ALCOHOLIC BEVERAGE WAIVER REQUEST

CASE NUMBER: SP-03-0459 AW

NAME AND LOCATION OF BAR: Truman's Bar, 121 E. 5th Street

NAME AND LOCATION OF PUBLIC SCHOOL WITHIN 300 FEET OF BAR:
American Youthworks, 216 E. 4th Street

ZONING: CBD

NEIGHBORHOOD PLAN: N/A

APPLICANT: Luis Jimenez, owner

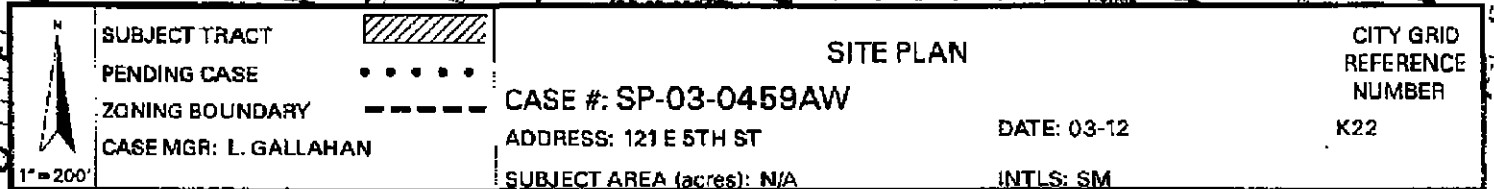
REQUEST:

The applicant, Luis Jimenez, requests a waiver from the minimum distance requirement of 300 feet in Section 8-3-4(A) of the Austin City Code. Mr. Jimenez' bar, Truman's Bar, is located 120 feet from an existing public school, American Youthworks, located at 216 East 4th Street.

Section 8-3-4(D)(1) allows the City Council to waive the 300 foot distance requirement if they determine that enforcement of the distance requirement in a particular instance:

- (a) is not in the best interest of the public;*
- (b) constitutes waste or the inefficient use of land or other resources;*
- (c) creates an undue hardship on an applicant*
- (d) does not serve its intended purpose*
- (e) is not effective or necessary; or*
- (f) for any other reason the City Council, 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.*

Section 8-3-4(D)(2) provides that the City Council may consider a written consent to the waiver of the 300 foot distance requirement provided by each church, public school, public hospital, day-care center or child-care facility within 300 feet of the proposed place of business to be sufficient justification for the waiver. Mr. Richard H. Halpin, Founder/CEO of American Youthworks, has provided written consent for the waiver.



A M E R I C A N
YOUTHWORKS
Building Tomorrow's Citizens

May 19, 2003

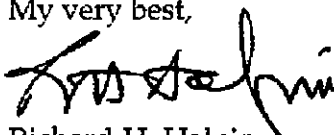
Ms. Lucy Gallahan
Watershed Protection and Development Review Department
Building Zone Review
City of Austin
505 Barton Springs Road
Austin, Texas 78704

Dear Ms. Gallahan,

American YouthWorks has received a request for consent to a waiver that would allow the owners of Truman's Bar at 121 East 5th Street to engage in the sale of alcoholic beverages. This letter is meant to advise that American YouthWorks does not wish to contest the liquor license of Truman's Bar, knowing full well that Truman's Bar lies within the 300 foot property to property regulation. Truman's Bar hours of operation will not conflict with that of American YouthWorks, and therefore, we have no vested interest in keeping Truman's Bar from conducting business as usual.

If you have any questions, you may reach me at 512 236-6155 or email rharpin@aill.org.

My very best,



Richard H. Halpin
Founder/CEO

RHH/mls



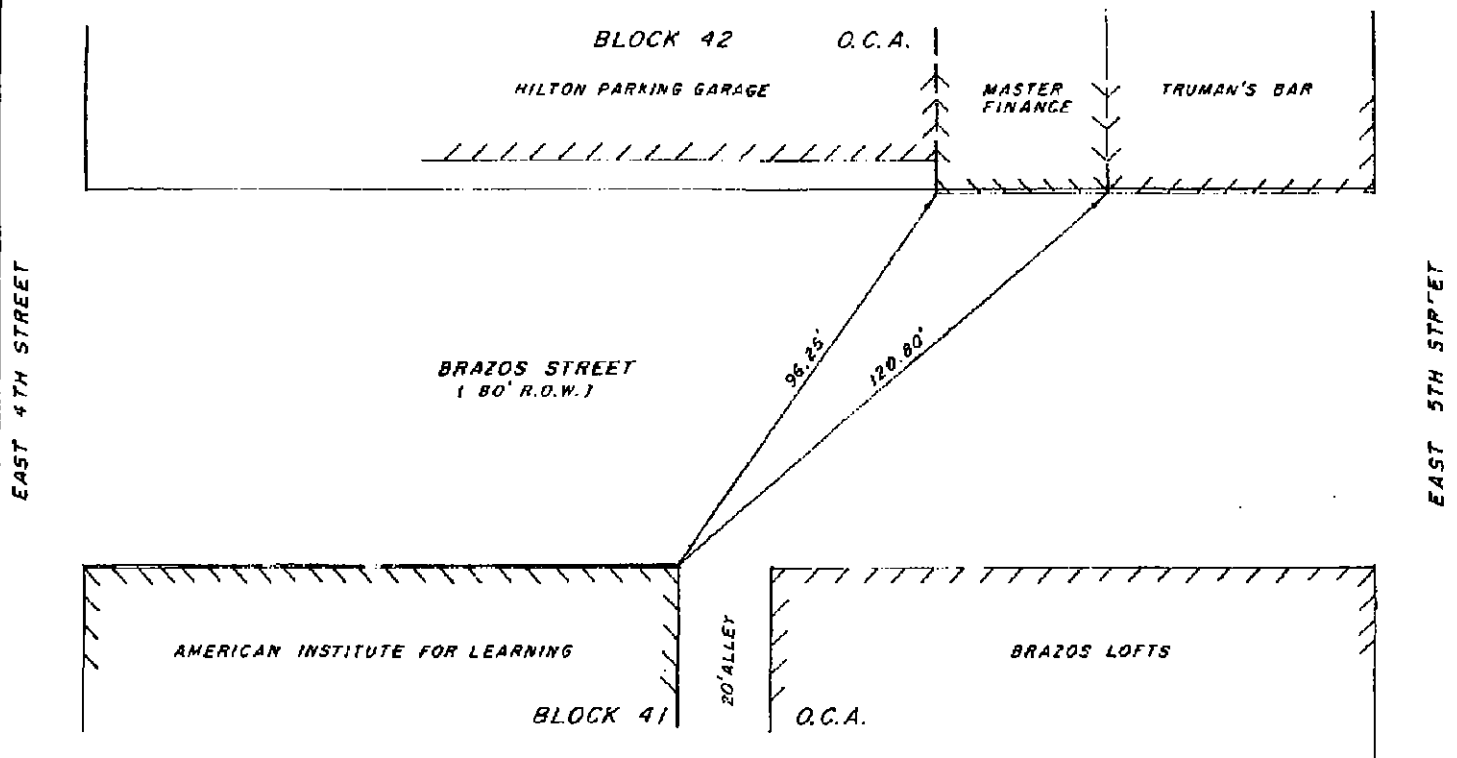
PHONE: 512.472.8920 FAX: 512.472.1189

216 East 4th Street Austin, Texas 78701

www.americanyouthworks.org

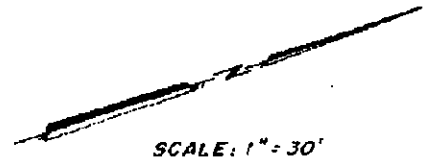
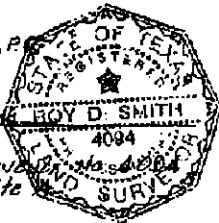
Formerly American Institute for Learning

EXHIBIT FOR DISTANCE TIES BETWEEN BUILDINGS



SURVEYED BY
ROY D. SMITH SURVEYORS, P.C.

Roy D. Smith
ROY D. SMITH
Registered Professional Surveyor
1214 West 5th Street Suite 400
Austin, Texas 78703
Ph. (512) 478-9821
July 25, 2003



RESOLUTION NO.

WHEREAS, Mr. Luis Jimenez, on behalf of Truman's Bar, has filed an application for a waiver of Section 4-9-4(A) of the City Code which prohibits the sale of alcoholic beverages within 300 feet of a church, public school, or public hospital; and

WHEREAS, Truman's Bar, located at 121 East 5th Street, Austin, Texas, is within 300 feet of American Youth Works, a public school located at 216 East 4th Street; and

WHEREAS, notice of the application and hearing for the waiver was provided in accordance with Section 4-9-4(A) of the Austin City Code; and

WHEREAS, a public hearing concerning this proposed waiver was held by the City Council on January 29, 2004, in accordance with the provisions of Section 25-1-132 of the City Code; and

WHEREAS, American Youth Works has provided written consent to the waiver; and

WHEREAS, the City Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, has determined that the waiver request is in the best interest of the community; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That Truman's Bar be granted a waiver from Section 4-9-4(A) of the City Code and be allowed to sell alcoholic beverages at 121 East 5th Street, Austin, Texas; and that the waiver shall expire on the sale or transfer of the business to any other individual, whether by lease or any other arrangement, on cessation of the business, or on revocation of the alcoholic beverage permits granted to the Truman's Bar for this site.

ADOPTED: _____, 2004

ATTEST: _____
Shirley A. Brown
City Clerk

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