



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

AGENDA ITEM NO.: 52
AGENDA DATE: Thu 04/15/2004
PAGE: 1 of 1

SUBJECT: Conduct a public hearing and approve a resolution authorizing the waiver of the 300 feet minimum distance requirement of Section 4-9-4 of the City Code between the Pacha Coffeehouse, a business that proposes to sell alcoholic beverages at 4618 Burnet Road, and Texas School for the Blind and Visually Impaired, a public school located at 1100 West 45th 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 Pantalione

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, Julie Fouillet, owner of Pacha Coffeehouse, requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the City Code because she intends to sell alcoholic beverages at her business which is located 77 feet from a public school, Texas School for the Blind and Visually Impaired, at 1100 W. 45th Street.

Section 4-9-5 allows the City Council to waive the 300 feet distance requirement if it determines that enforcement of the distance requirement in a particular instance:

- (1) is not in the best interest of the public;
- (2) constitutes waste or the inefficient use of land or other resources;
- (3) creates an undue hardship on an applicant;
- (4) does not serve its intended purpose;
- (5) is not effective or necessary; or
- (6) for any other reason the 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) provides that the City Council may consider a written consent to the waiver of the 300 feet 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 Dr. Phil Hatlen, Superintendent of Texas



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

AGENDA ITEM NO.: 52
AGENDA DATE: Thu 04/15/2004
PAGE: 2 of 1

School for the Blind and Visually Impaired.

RESOLUTION NO.

WHEREAS, Ms. Julie Fouillet, on behalf of the Pacha Coffeehouse, has filed an application for a waiver of Section 4-9-4 of the City Code which prohibits the sale of alcoholic beverages within 300 feet of a church, public school, or public hospital; and

WHEREAS, the Pacha Coffeehouse, located at 4618 Burnet Road, Austin, Texas, is within 300 feet of Texas School for the Blind and Visually Impaired, a public school located at 1100 West 45th Street; and

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

WHEREAS, a public hearing concerning this proposed waiver was held by the City Council on April 15, 2004, in accordance with the provisions of Section 25-1-132 of the City Code; and

WHEREAS, Texas School for the Blind and Visually Impaired 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 the Pacha Coffeehouse be granted a waiver from Section 4-9-4 of the City Code and be allowed to sell alcoholic beverages at 4618 Burnet Road, 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 Pacha Coffeehouse for this site.

ADOPTED: _____, 2004

ATTEST: _____

Shirley A. Brown
City Clerk

L:\CLW\GC\GLA\mdrcouncil2004\4-15-2004\#4618 Pacha Coffeehse min dis waiver resolution draft (DT:mr)

STAFF REPORT

ALCOHOLIC BEVERAGE WAIVER REQUEST

CASE NUMBER: SP-04-0054 AW

LOCATION OF PROPOSED BUSINESS: 4618 Burnet Rd.

NAME AND LOCATION OF PUBLIC SCHOOL WITHIN 300 FEET OF PROPOSED CONVENIENCE STORE: Texas School for Blind and Visually Impaired, 1100 West 45th Street

ZONING: CS

USE: Restaurant (General)

APPLICANT: Julie S. Fouillet, manager/owner

REQUEST:

The applicant, Ms. Julie Fouillet, requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the Austin City Code in order to sell beer and wine at an existing restaurant. The development is located at 4618 Burnet Road, which is 77 feet from an existing public school, Texas School for the Blind and Visually Impaired, at 1100 W. 45th Street.

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

- (1) is not in the best interest of the public;*
- (2) constitutes waste or the inefficient use of land or other resources;*
- (3) creates an undue hardship on an applicant*
- (4) does not serve its intended purpose*
- (5) is not effective or necessary; or*
- (6) 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) 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 business to be sufficient justification for the waiver. Dr. Phil Hatlen, Superintendent for the Texas School for the Blind and Visually Impaired, has provided written consent for the waiver.

Texas School for the Blind and Visually Impaired

Dr. Phil Hatlen, Superintendent

A Center for Educational Services for All
Blind and Visually Impaired Students in Texas
1100 W. 45th Street, Austin, Texas 78756-3494
(512) 454-8631
1-800-TSB-KARE
TDD (512)-206-9451
www.tsbvi.edu

February 4, 2004

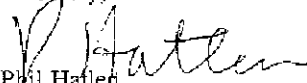
Julie Fouillet
Pacha Coffeehouse
4618 Burnet Road
Austin, TX 78756

Dear Ms. Fouillet,

This letter is to inform you that the Texas School for the Blind and Visually Impaired has no objection to the Pacha Coffeehouse receiving a license to sell beer and wine. We do not believe this represents any hazards for our students.

If you are not providing this service already, I ask in return that you have braille menus available for blind customers.

Sincerely,


Phil Hatlen
Superintendent

BOARD OF TRUSTEES:

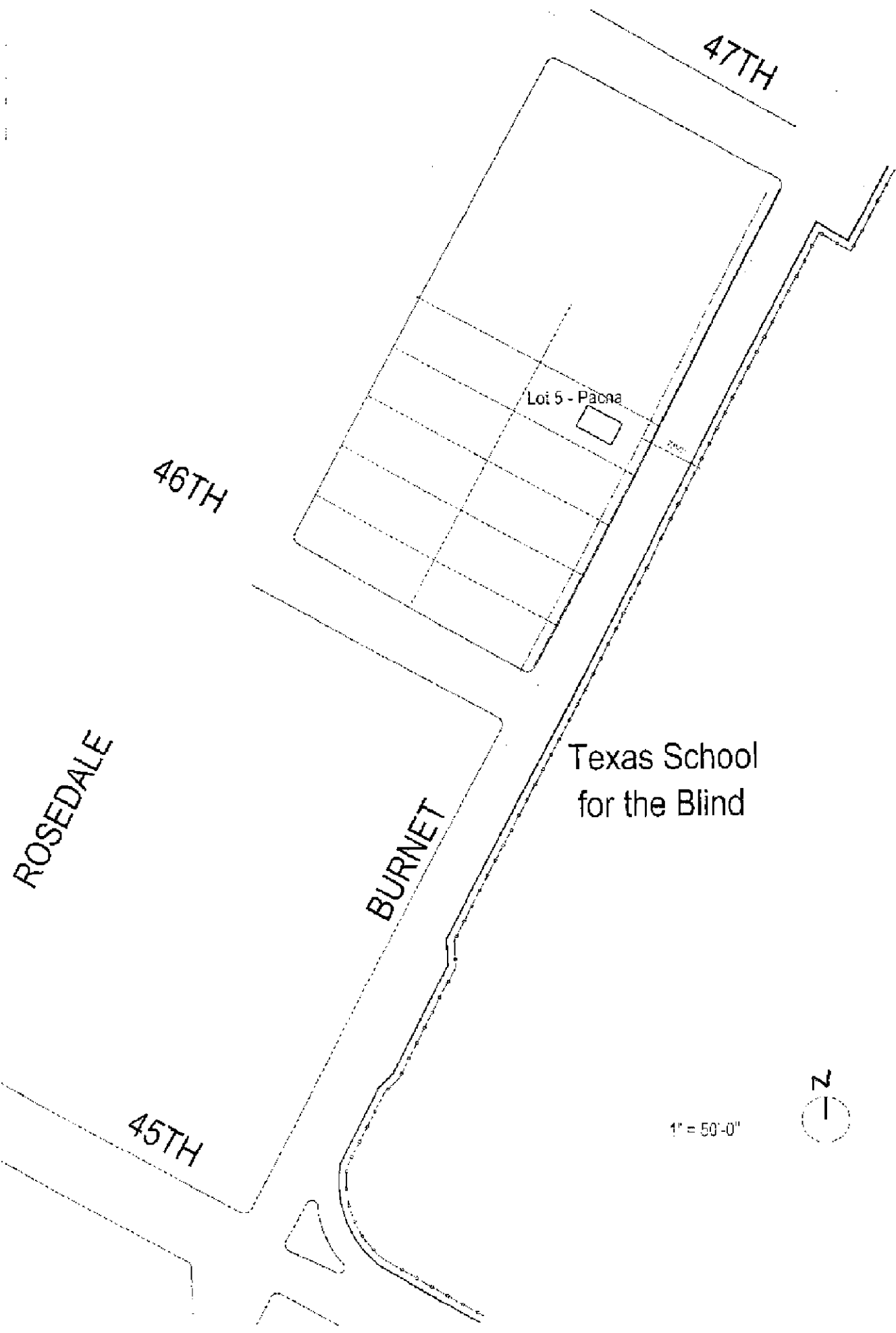
Parents of Persons with Visual Impairments:
Ottilio Galindo, San Angelo
Jamie Wheeler, Watauga
Vacant

Consumers with Visual Impairments:
Gene Brooks, Austin
Jesus Bautista, El Paso
Mary Sue Welch, Dallas – President

Persons Working with the Visually Impaired:
Donna Vaden Clopton, Brock
Deborah Louder, San Angelo
Frankie D. Swift, Nacogdoches

FAX:

Business Office (512)206-9452
Central Mail Room (512)206-9450
Outreach Services (512)206-9320
Superintendent (512)206-9453
Admissions (512)206-9143



Lot 5 - Panna

Texas School
for the Blind

1" = 50'-0"



