



Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: 54
AGENDA DATE: Thu 06/10/2004
PAGE: 1 of 1

SUBJECT: Conduct a public hearing and approve a resolution authorizing the waiver of the 300 foot minimum distance requirement of Section 4-9-4 of the City Code between Baja Fresh, a business that proposes to sell alcoholic beverages at 2100 Guadalupe Street, and St. Austin's Catholic Parish, a church located at 2026 Guadalupe 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, Kyle Gubernator as representative of the owner of Baja Fresh, J.P. Morgan Chase Bank, requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the City Code because the business intends to sell alcoholic beverages at a restaurant that is located 213 feet from a church, St. Austin's Catholic Parish at 2026 Guadalupe.

Section 4-9-5 allows the City Council to waive the 300-foot 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-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 Rick Gerber, Office Manager for the church.

RESOLUTION NO.

WHEREAS, Kyle Gubernator as representative of the owner of Baja Fresh, J. P. Morgan Chase Bank, 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, Baja Fresh, located at 2100 Guadalupe Street, Austin, Texas, is within 300 feet of St. Austin's Catholic Parish, a church located at 2026 Guadalupe Street; and

WHEREAS, Baja Fresh desires to sell alcoholic beverages; 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 June 10, 2004, in accordance with the provisions of Section 25-1-132 of the City Code; and

WHEREAS, St. Austin's Catholic Parish 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:

Baja Fresh be granted a waiver from Section 4-9-4 of the City Code and be allowed to sell alcoholic beverages at 2100 Guadalupe Street, Austin, Texas. The waiver expires on the sale or transfer of the business to another individual or entity, whether by lease or other arrangement, on cessation of the business, or on revocation of the alcoholic beverage permits granted to Baja Fresh for this site.

ADOPTED: _____, 2004

ATTEST: _____
Shirley A. Brown
City Clerk

L:\CLW\GC\GLA\mdrcouncil2004\6-10-2004\#5363 Baja Fresh min dis waiver resolution draft (DT:mr)

STAFF REPORT

ALCOHOLIC BEVERAGE WAIVER REQUEST

CASE NUMBER: SP-04-01152AW

LOCATION OF PROPOSED BUSINESS: 2100 Guadalupe

NAME AND LOCATION OF CHURCH WITHIN 300 FEET OF PROPOSED RESTAURANT: St. Austin's Catholic Parish, 2026 Guadalupe Street

ZONING: CS

USE: Restaurant (General)

APPLICANT: Jim Bennett, agent

REQUEST:

The applicant's agent, Jim Bennett, 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 a proposed restaurant. The restaurant is located at 2026 Guadalupe, which is 213 feet from an existing church, St. Austin's Catholic Parish, located at 2026 Guadalupe Street.

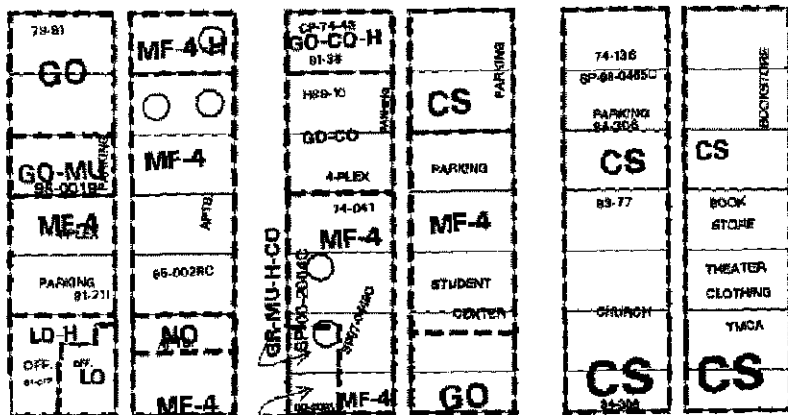
Section 4-9-5(A) allows the City Council to waive the 300-foot distance requirement if they determine that enforcement of the distance requirement in a particular instance:

- (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. Rick Gerber, Office Manager for the church, has provided written consent for the waiver.

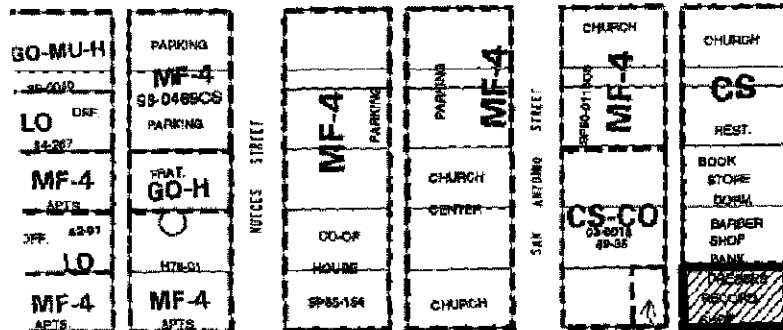


WEST 23RD STREET



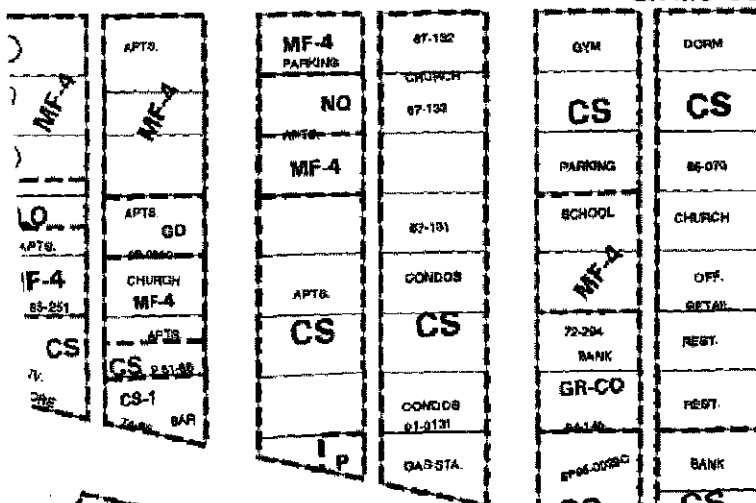
UNIVERSITY OF TEXAS
UNZ

GUADALUPE STREET
SP-04-0060C



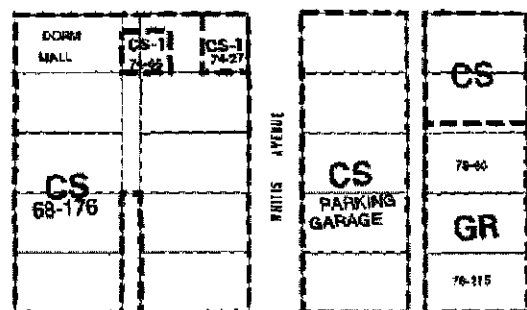
UNIVERSITY

SP-04-0060C

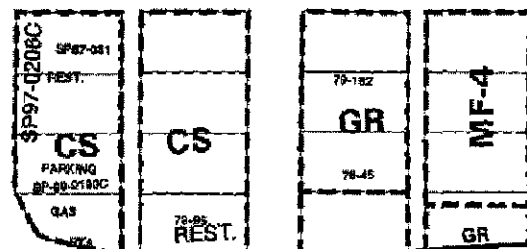


GUADALUPE STREET

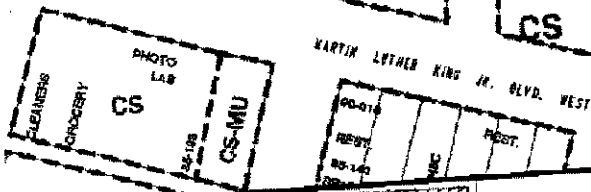
WHITE AVENUE



WEST 20TH STREET



CITY GRID
REFERENCE
NUMBER
J23



SITE PLAN

SUBJECT TRACT
PENDING CASE
ZONING BOUNDARY
CASE MGR: L. GALLAHAN

CASE #: SP-04-0152(AW)
ADDRESS: 2100-A GUADALUPE ST
SUBJECT AREA (acres): N/A

DATE: 04-04
INTLS: SM

1" = 200'

SENT FROM TEXAS RESTAURANT GROUP
Sent BY: TEXAS RESTAURANT GROUP; 817 810 0802;
To: BOB HOME At: 8013187.128

Feb-13-04 7PM; Page 1/1

November 13, 2003

Bob Stewart
Texas Restaurant Group, Inc.
DBA Baja Fresh Mexican Grill
550 Bailey Ave. #230
Ft. Worth TX 76107

Dear Mr. Stewart,

St. Austin Catholic Parish located at 2026 Guadalupe in Austin TX has no objections to Baja Fresh Mexican Grill selling beer/wine in its restaurant at 2100 Guadalupe Street.

Sincerely,



Rick Gerber
St. Austin Catholic Parish

SAN ANTONIO STREET

W. 21ST STREET

GUADALUPE STREET

UNIVERSITY OF
TEXAS AT AUSTIN

SITE PLAN

SCALE
1" = 100'



NO.	REVISION	DATE
1	ISSUED FOR PERMIT	08/11/10
2	REVISED PER PERMIT	08/11/10
3	REVISED PER PERMIT	08/11/10
4	REVISED PER PERMIT	08/11/10
5	REVISED PER PERMIT	08/11/10
6	REVISED PER PERMIT	08/11/10
7	REVISED PER PERMIT	08/11/10
8	REVISED PER PERMIT	08/11/10
9	REVISED PER PERMIT	08/11/10
10	REVISED PER PERMIT	08/11/10

SITE PLAN

1.2

● CARRELL
 ■ POOLE
 ▼ & YOST
 ARCHITECTS
 1504 N. Lamar Street
 Austin, TX 78703
 512.476.1234
 214.476.1234
 www.ayost.com

RAJA FRESH
PRODUCE

GUADALUPE
2100 N. Lamar St.
Austin, TX 78703

GUADALUPE