



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

AGENDA ITEM NO.: 65
AGENDA DATE: Thu 10/20/2005
PAGE: 1 of 2

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 restaurant at 1123 S. Congress and a school located at 1102 S. Congress.

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

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

The applicant, 1123 S. Congress, L.P. 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 alcohol at Doc's Motorworks Bar & Grill, a restaurant located at 1123 S. Congress. The restaurant is 118 feet from the Texas School for the Deaf located at 1102 S. Congress.

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:

- (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) 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. Claire Bugen, Superintendent of the Texas School for the Deaf, has provided a letter indicating she is in support of the waiver request.

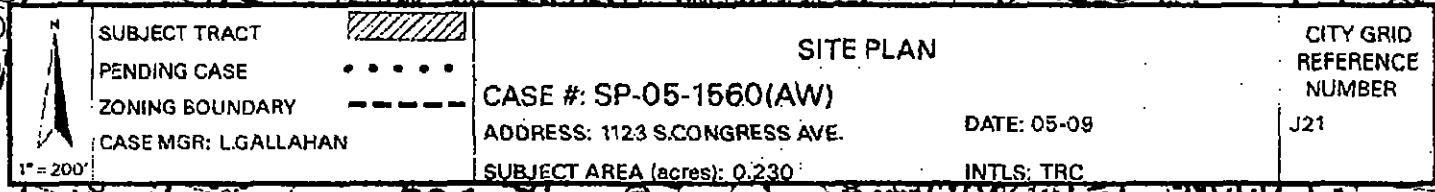
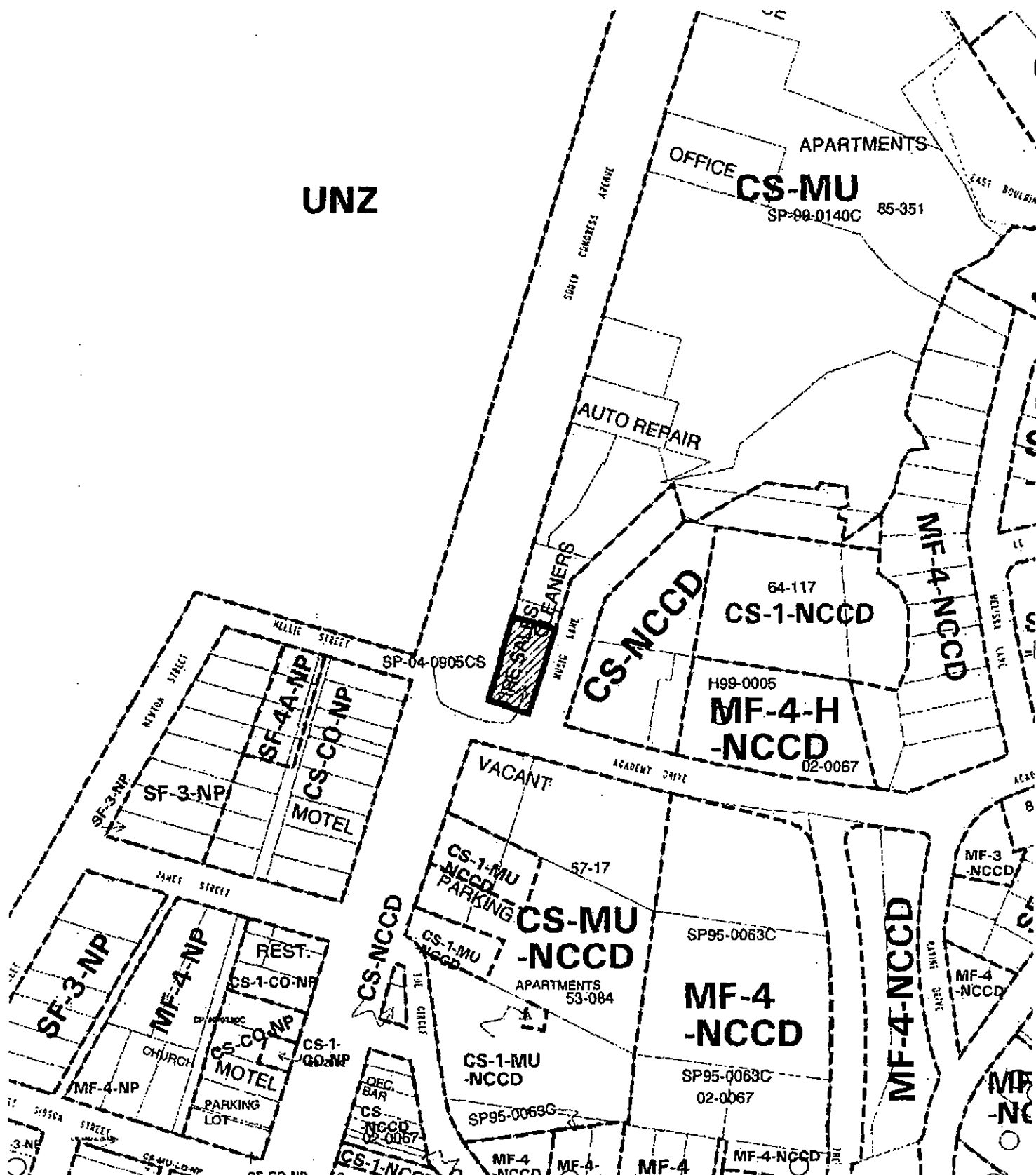


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City Council may consider a waiver request after notification requirements listed in Section 4-9-6 of the City Code are met. The requirements include notice of a public hearing to each record owner of real property located within 300 feet of the subject tract and notice to each registered neighborhood association whose boundaries fall within the subject tract mailed no later than 15 days before the public hearing is conducted. In addition, publication of the public hearing must be advertised in the local daily newspaper and a sign must be posted at the restaurant.

UNZ



RESOLUTION NO.

WHEREAS, Kareem T. Hajjar, on behalf of 1123 S. Congress L.P., owner of Doc's Motorworks Bar & Grill, 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, Doc's Motorworks Bar & Grill, located at 1123 South Congress Avenue, Austin, Texas, is within 300 feet of the Texas School for the Deaf located at 1102 South Congress Avenue; and

WHEREAS, notice of the application and hearing for the waiver was provided in accordance with Section 4-9-5 of the City Code; and

WHEREAS, a public hearing concerning this proposed waiver was held by the City Council on October 20, 2005, in accordance with the provisions of Section 25-1-132 of the City Code; and

WHEREAS, the Texas School for the Deaf 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:

Doc's Motorworks Bar & Grill is granted a waiver from Section 4-9-4 of the City Code and is allowed to sell alcoholic beverages at 1123 South Congress Avenue, Austin, Texas; and the waiver shall expire on the sale or transfer of the business to any other individual or entity, whether by lease or any other arrangement, on cessation of the business, or on revocation of the alcoholic beverage permits granted to Doc's Motorworks Bar & Grill for this site.

ADOPTED: _____, 2005 **ATTEST:** _____
Shirley A. Brown
City Clerk

STAFF REPORT

ALCOHOLIC BEVERAGE WAIVER REQUEST

CASE NUMBER: SP-05-1560(AW)

NAME AND LOCATION OF RESTAURANT: Doc's Motorworks Bar and Grill, 1123 S. Congress Avenue.

NAME AND LOCATION OF SCHOOL WITHIN 300 FEET OF PROPOSED SALE OF ALCOHOLIC BEVERAGES: Texas School for the Deaf, 1102 S. Congress

ZONING: CS-MU

NEIGHBORHOOD PLAN: N/A

APPLICANT: Kareem T. Hajjar

REQUEST: The applicant, Kareem T. Hajjar, requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the Austin City Code. The owners of the restaurant propose adding alcoholic beverage sales to the existing restaurant, which is located 118 feet from the Texas School for the Deaf.

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:

- (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) 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. The superintendent for the Texas School for the Deaf, Claire Bugen, has provided a letter indicating she is in support of the request.

Staff recommends approval of the waiver request.



**City of Austin
Watershed Protection Department**

To Whom It May Concern:

The purpose of this letter is to inform you that, as Superintendent of the Texas School for the Deaf (TSD), I am aware of the waiver and in support of the operation of Doc's Motorworks Bar and Grill in its current location at 1123 South Congress Avenue, which I recognize is within 300 feet of TSD. We are pleased with our partnership with Doc's and their presence in our neighborhood. We are also appreciative and excited that Doc's has hired two TSD students.

Sincerely,

**Claire Bugen
Superintendent**

RESOLUTION NO.

WHEREAS, Kareem T. Hajjar, on behalf of 1123 S. Congress L.P., owner of *Doc's Motorworks Bar & Grill*, 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, *Doc's Motorworks Bar & Grill*, located at 1123 South Congress Avenue, Austin, Texas, is within 300 feet of the Texas School for the Deaf, located at 1102 South Congress Avenue; and

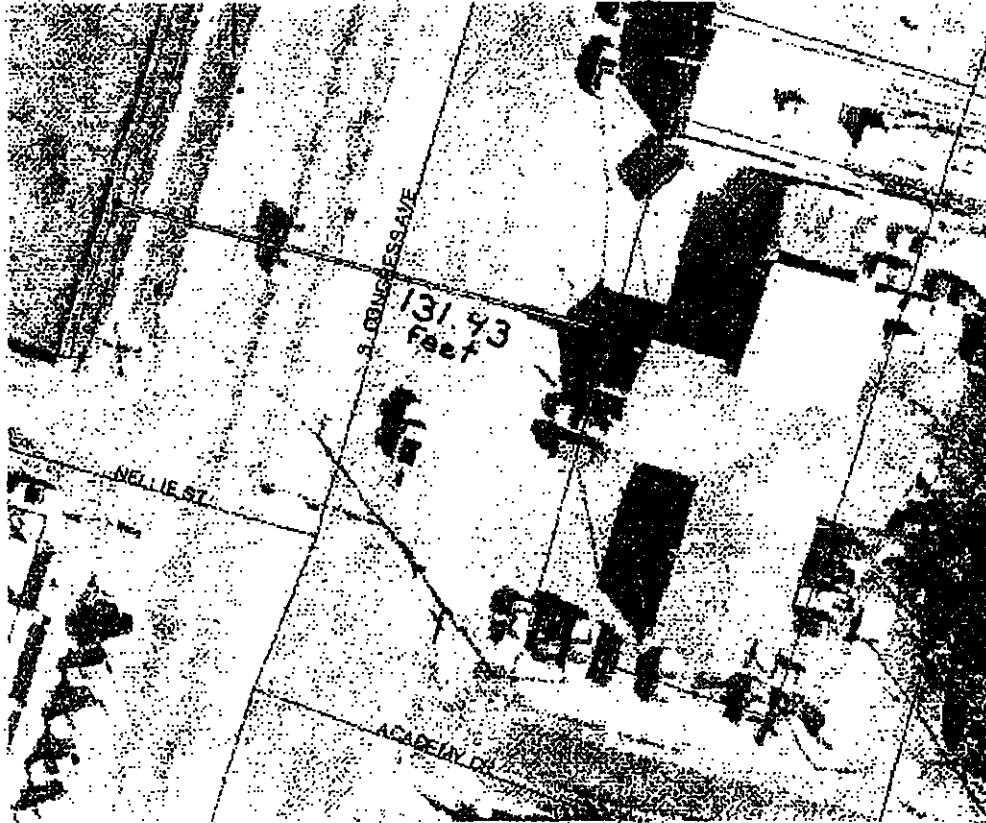
WHEREAS, notice of the application and hearing for the waiver was provided in accordance with Section 4-9-5 of the City Code; and

WHEREAS, a public hearing concerning this proposed waiver was held by the City Council on October 20, 2005, in accordance with the provisions of Section 25-1-132 of the City Code; and

WHEREAS, the Texas School for the Deaf 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**,

City of Austin Map



Legend
Street Center
Line

Lot ID

Block ID

Lot Line

Creeks

Lakes and
Rivers

Color Images
2003

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

Doc's Motorworks Bar & Grill is granted a waiver from Section 4-9-4 of the City Code and is allowed to sell alcoholic beverages at 1123 South Congress Avenue, Austin, Texas; and the waiver shall expire on the sale or transfer of the business to any other individual or entity, whether by lease or any other arrangement, on cessation of the business, or on revocation of the alcoholic beverage permits granted to Doc's Motorworks Bar & Grill for this site.

BE IT FURTHER RESOLVED:

The waiver is conditioned upon compliance with, applicable regulations, including but not limited to, municipal zoning and development regulations, and requirements of the site plan for 1123 South Congress Avenue.

ADOPTED: _____, 2005 **ATTEST:** _____
Shirley A. Brown
City Clerk