



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

**AGENDA ITEM NO.: 55
AGENDA DATE: Thu 01/12/2006
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) which requires 300 feet between a business that proposes to sell alcoholic beverages at 4800 Burnet Road and a public school, Texas School for the Blind and Visually Impaired, 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; Joan Esquivel, 974-3371

PRIOR COUNCIL ACTION: December 15, 2005 - Set the public hearing.

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

The owner of Sampaio's Restaurant, Magna Sampaio, requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the Austin City Code because she intends to sell alcoholic beverages at her restaurant which is located 81 feet from a public school, Texas School for the Blind and Visually Impaired, at 1100 West 45th Street.

Section 4-9-5 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 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 has been received from Dr. Phil Hatlen, Superintendent of Texas School for the



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Blind and Visually Impaired.

STAFF REPORT

ALCOHOLIC BEVERAGE WAIVER REQUEST

CASE NUMBER: SP-05-1591(AW)

NAME AND LOCATION OF RESTAURANT: Sampaio's Restaurant, 4800 Burnet Road, Bldg. B.

NAME AND LOCATION OF SCHOOL WITHIN 300 FEET OF PROPOSED SALE OF ALCOHOLIC BEVERAGES: Texas School for the Blind and Visually Impaired, 1100 W. 45th Street

ZONING: CS

NEIGHBORHOOD PLAN: N/A

APPLICANT: Magna Sampaio

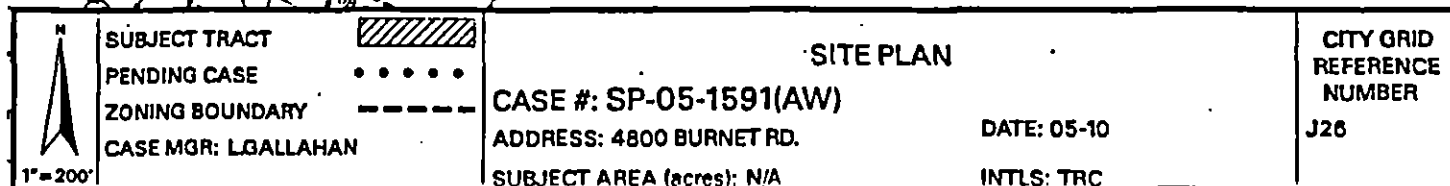
REQUEST: The applicant, Magna Sampaio, requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the Austin City Code. Ms. Sampaio is proposing selling alcoholic beverages at her restaurant, which is located 81 feet from the Texas School for the Blind and Visually Impaired.

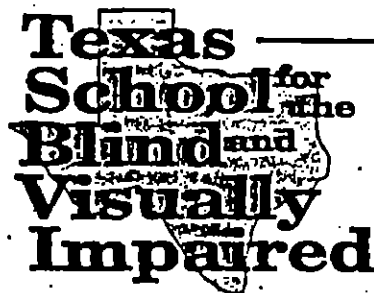
Section 4-9-5(A) allows the City Council to waive the 300 foot distance requirement if they determine that enforcement of the distance requirement in a particular instance:

- (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 Blind and Visually Impaired, Phil Hatlen, has provided a letter indicating he is in support of the request.

Staff recommends approval of the waiver request.





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

October 3, 2005

Magna Sampaio
Sampaio's Restaurant and Bar
4800 Burnet Re., Suite 200
Austin, TX 78756

Dear Ms. Sampaio,

This letter is to inform you that the Texas School for the Blind and Visually Impaired has no objection to the Sampaio's Restaurant and Bar receiving a permit to sell mix beverage (alcoholic beverage). 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 Braille menus available for blind customers.

Sincerely,


Phil Hatlen
Superintendent

BOARD OF TRUSTEES:

Parents of Persons with Visual Impairments:
Ottilo Galindo, San Angelo
Jamie Wheeler, North Richland Hills
Janet Ardoyno, Abilene

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

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

FAX:

Business Office	(512)206-9452
Central Mail Room	(512)206-9450
Outreach Services	(512)206-9320
Superintendent	(512)206-9453
Admissions	(512)206-9148

U.S. AIR FORCE (AF) THE OFFICE OF THE SECRETARY OF THE AIR FORCE

RESOLUTION NO.

WHEREAS, Magna Sampaio, owner of Sampaio's Restaurant, 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, Sampaio's Restaurant, located at 4800 Burnet Road, Austin, Texas, is within 300 feet of the Texas School for the Blind and Visually Impaired, located at 1100 West 45th Street; and

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

WHEREAS, a public hearing concerning this proposed waiver was held by the City Council on January 12, 2006, in accordance with the provisions of Section 25-1-132 of the City Code; and

WHEREAS, the 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:

Sampaio's Restaurant is granted a waiver from Section 4-9-4 of the City Code and is allowed to sell alcoholic beverages at 4800 Burnet Road, 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 Sampaio's Restaurant for this site.

ADOPTED: _____, 2006 **ATTEST:** _____

Shirley A. Gentry
City Clerk