



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

**AGENDA ITEM NO.: 62
AGENDA DATE: Thu 09/29/2005
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SUBJECT: Set 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. (Suggested date and time: October 20, 2005 at 6:00 p.m.)

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

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: 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 not opposed to the waiver request.

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



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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 with the public hearing information.