

Mayor and Council Communication

DATE: 08/04/20

M&C FILE NUMBER: M&C 20-0476

LOG NAME: 06AA-20-003 FOR 4163 E. ROSEDALE STREET

SUBJECT

(CD 8) Conduct Public Hearing to Consider Variance from Section 4-4 of the City Code to Allow Beer and Wine Sales for On-Premise Consumption at Taqueria Las Esmeraldas Located at 4163 E. Rosedale Street (Continued from a Previous Meeting)

(PUBLIC HEARING - a. Report of City Staff: Arty Wheaton-Rodriguez; b. Public Comment; c. Council Action: Close Public Hearing and Act on M&C)

RECOMMENDATION:

It is recommended that the City Council consider a request from Diana Hernandez, lessee of Taqueria Las Esmeraldas, located at 4163 E. Rosedale Street for a variance from Section 4-4 of the City Code prohibiting the sale of alcoholic beverages within 300 feet of Mt. Herman Baptist Church located at 4150 E. Rosedale Street.

DISCUSSION:

Diana Hernandez, lessee of Taqueria Las Esmeraldas, is requesting a variance to sell beer and wine for on-premise consumption in a restaurant located at 4163 E. Rosedale Street. The restaurant is located approximately 265 feet from a front door of Mt. Herman Baptist Church, located at 4150 E. Rosedale Street, as depicted on the attached map.

Section 4-4(a) of the City's Alcoholic Beverages Code, Chapter 4 of the City Code, provides that it is unlawful to sell alcoholic beverages at a place of business that is located within 300 feet of any church, public school, or public hospital. The measurement of the distance between the place of business where alcoholic beverages are sold and a church shall be along the property lines of the street fronts and from front door to front door.

Section 4-4(f) of the City Code provides that the City Council may grant a variance from the 300-foot regulation as follows: The City Council may allow a variance to this section if it determines that the enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on the applicant for a license or permit, does not serve its intended purpose, or is not effective or necessary, or that a previous permit was issued for the premises in error and enforcement of the regulation would be inequitable, or for any other reason the City Council determines, after consideration of the health, safety and welfare of the public and the equities of the situation, that the variance is in the best interest of the community. Ms. Hernandez requests that the City Council grant a variance from the 300-foot distance regulation.

Notice of the hearing has been sent to owners of property within 300 feet and to registered neighborhood organizations within 1/2 mile of 4163 E. Rosedale Street as required by Section 4-4(f) of the City Code. A letter from Mt. Herman Baptist Church has been requested.

This M&C does require a public hearing to get input from the applicant and surrounding property owners.

This property is located in COUNCIL DISTRICT 8.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that this action will have no material effect on City Funds.

Submitted for City Manager's Office by: Dana Burghdoff 8018

Originating Business Unit Head: D.J. Harrell 8032

Additional Information Contact: Beth Knight 8190