

# Mayor and Council Communication

**DATE:** 02/14/23

**M&C FILE NUMBER:** 23-0002-Revised

**LOG NAME:** 06AA22-00007 FOR 5693 WESTCREEK DRIVE UPDATED

**SUBJECT**

(CD 6 / Future CD 9) Conduct Public Hearing to Consider Variance from Section 4-4 of the City Code to Allow Mixed Beverage Sales for On-Premise Consumption at San Antonio Mexican Food & Home Cooking Restaurant Located at 5693 Westcreek Drive

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

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**RECOMMENDATION:**

It is recommended that the City Council consider a request from Joaquin Miranda, lessee of San Antonio Mexican Food & Home Cooking Restaurant, located at 5693 Westcreek Drive for a variance from Section 4-4 of the City Code prohibiting the sale of alcoholic beverages within 300 feet of Success in Life Ministries located at 5697 Westcreek Drive, as well as Westcreek Elementary School and Harmony Public School.

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**DISCUSSION:**

Joaquin Miranda, lessee of San Antonio Mexican Food & Home Cooking Restaurant, is requesting a variance to sell mixed beverages for on-premise consumption in a restaurant located at 5693 Westcreek Drive. The restaurant is located within 300 feet of three churches and two schools. The closest church is located approximately 30 feet from the restaurant, as depicted on the attached map. The closest school boundary is 100 feet from the western property line.

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 from the front door of the business requesting the variance and the closest front door of the church. The measurement of the distance between the place of business where alcoholic beverages are sold and a school shall be from the closest property line of the business requesting the variance and the closest property line of the school.

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. Mr. Miranda requests that the City Council grant a variance from the 300-foot distance regulation.

This Mayor and Council Communication (M&C) requires a public hearing to get input from the applicant and surrounding property owners. Notice of the public hearing has been sent to owners of property within 300 feet and to registered neighborhood organizations within 1/2 mile of 5693 Westcreek Drive as required by Section 4-4(f) of the City Code. A letter in support from the closest church, as well as the other two churches within 300 feet, was submitted by the applicant. No response has been received from either school.

This property is located in COUNCIL DISTRICT 6.

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

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**FISCAL INFORMATION / CERTIFICATION:**

The Director of Finance certifies that approval of this recommendation 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:**

