

# Mayor and Council Communication

DATE: 03/23/21

M&C FILE NUMBER: M&C 21-0196

LOG NAME: 06AA-21-001 FOR 3088 BASSWOOD BOULEVARD

## **SUBJECT**

(CD 4) Conduct Public Hearing to Consider Variance from Section 4-4 of the City Code to Allow Mixed Beverage Sales for On-Premise Consumption at Takara Japanese Restaurant Located at 3088 Basswood Boulevard

(PUBLIC HEARING - a. Report of City Staff: Arty Wheaton-Rodriguez; 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 Xiaohe Lin, lessee of Takara Japanese Restaurant, located at 3088 Basswood Boulevard for a variance from Section 4-4 of the City Code prohibiting the sale of alcoholic beverages within 300 feet of Basswood Elementary School located at 3100 Clay Mountain Trail.

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## **DISCUSSION:**

Xiaohe Lin, lessee of Takara Japanese Restaurant, is requesting a variance to sell mixed beverages for on-premise consumption in a restaurant located at 3088 Basswood Boulevard. The restaurant is located immediately adjacent to the Basswood Elementary School, located at 3100 Clay Mountain Trail, 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 school shall be from the 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. Lin 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 3088 Basswood Boulevard as required by Section 4-4(f) of the City Code. A letter from the Basswood Elementary School was requested by the applicant.

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

This property is located in COUNCIL DISTRICT 4.

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:** Beth Knight 8190