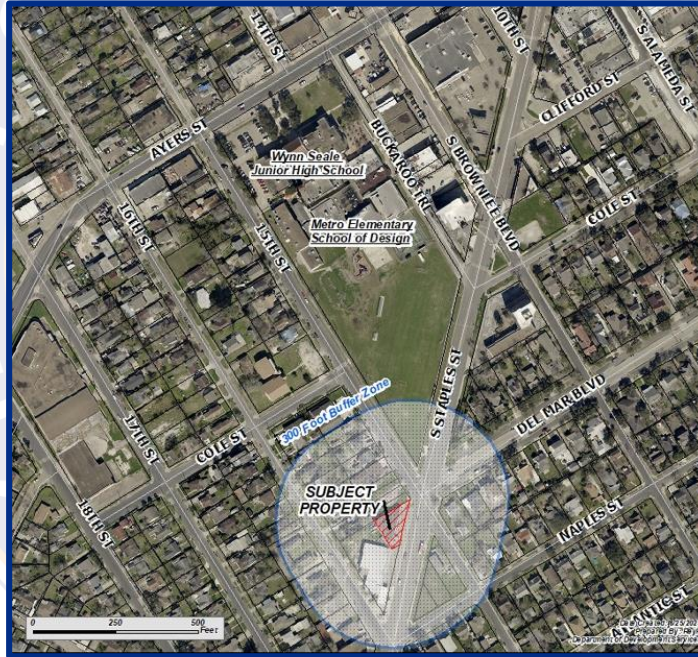


Request for T.A.B.C. Variance

Case No. 21ZN1026 – Stern
1911 South Staples Street



City Council
August 10, 2021

REQUEST

Variance Case No. 21ZN1026, Adam Stern: (District 2); Resolution granting a variance under Corpus Christi Code Section 4-5 to allow Voodoo Promotions, LLC to operate an alcohol beverage establishment with on-premise consumption on the property located at 1911 South Staples Street within 300 feet of a school.

The property is within 300 feet of a public or private school.

PURPOSE

The purpose of the request is to permit the operation of a membership club/lodge that primarily sells alcoholic beverages for on-premise consumption to its members on a property that is located less than 300 feet from the west property line of the Metro Elementary School of Design, a CCISD magnet school. The subject property is the site of the former “Pleasures” adult entertainment club, which shut down in November of 2020. The new property owner seeks to redevelop the site as a jazz venue and does not wish to resurrect the adult entertainment use.

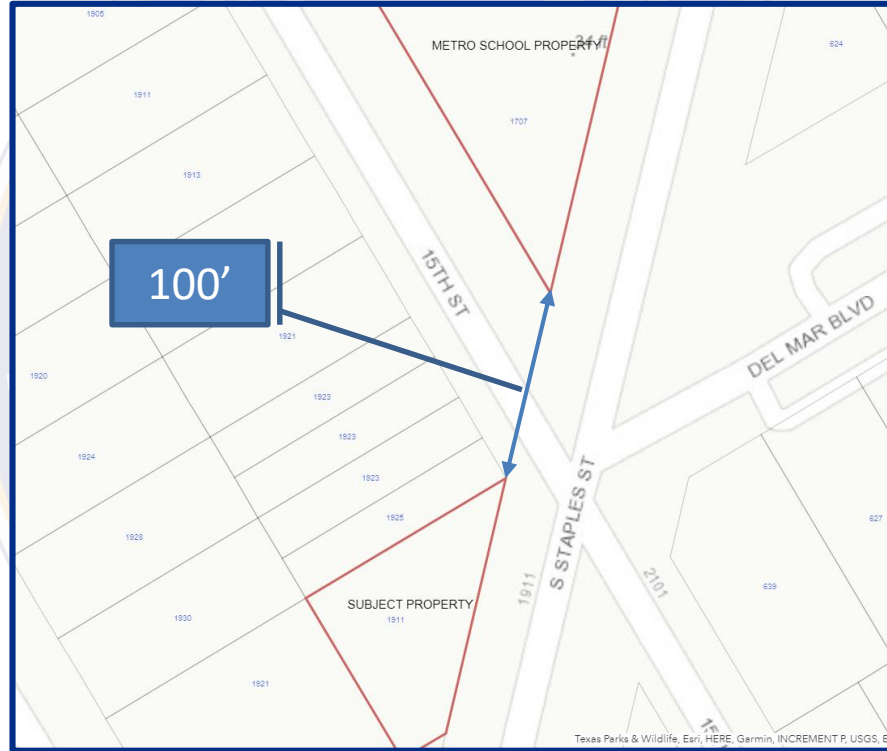
Former “Pleasures” Adult Club



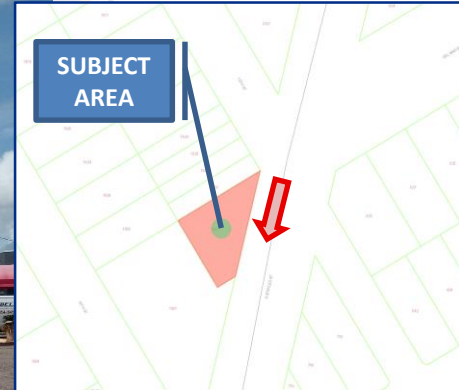
Background on Spacing Regulations

- §109.33(a), Texas Alcoholic Beverage Code, or TABC, authorizes the City Council to adopt spacing regulations for establishments serving alcohol.
 - Corpus Christi Code of Ordinances, §4-5(b), adopts the TABC spacing requirements.
 - Cities are pre-empted from regulating alcohol, except as allowed by the Texas Alcoholic Beverage Commission (or Commission), therefore the City's spacing requirements must conform to the TABC.
 - §4-5(b), City Code, defers to §109.33(b), TABC, which requires that alcohol businesses be spaced at least 300' from churches, public or private schools and hospitals. For public and private schools only, distance is measured in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections (RE: §109.33[b][1]). A different standard is applied for churches and hospitals.
 - §109.33(e), TABC, allows the City Council to grant variances from these spacing requirements.
-

Currently, there is **less than 300'** of distance separation between property lines, which does not comply with §4-5(b)



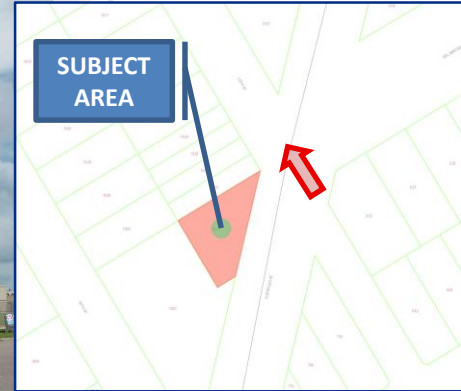
Staples Street – Looking southwest



Staples Street – Looking east



15th Street – Looking northwest



TIMELINE

1. March 19, 2020 – Governor Abbott issues a series of executive orders shutting down non-essential businesses in response to COVID-19 disaster declaration. Bars were effectively shut down.
2. Voodoo Promotions, LLC purchases the property located at 1911 South Staples (site of the former “Pleasures” adult club) in July of 2020.
3. TABC alcohol service permit for Pleasures voluntarily turned in by business owner Syed Rahman, 9/4/2020; Pleasures continues as a BYOB operation.
4. Governor Abbott issues an executive order allowing bars to reopen at 50% capacity on 10/14/2020.
5. Police Department revokes SOB license for Pleasures, 11/24/2020; last day of operation is 11/26/2020.
6. Adam Stern, principal with Voodoo Promotions, LLC approaches the City in May of 2021 to redevelop the property as a jazz bar; current CN-1 zoning will allow such an operation under a membership club or lodge. Approval of a variance to §4-5(b) of City Code to allow alcohol sales with on-premise consumption within 300’ of a school will be needed.

Required findings for a variance

- City Council must find that the enforcement of the spacing requirements in this particular circumstance:
 - Is not in the best interest of the general public;
 - Constitutes waste or an inefficient use of the land or other resources;
 - Creates an undue hardship on an applicant for an alcohol permit.

Factors in support of the variance

1. As a matter of contrast, distance separations from churches and hospitals are measured from front-door to front-door. In applying this door-to-door standard, as based upon building siting as well as differences in property sizes and locations, the distance separation increases to over 1,200 feet.
2. Operational hours between both the bar (open after 5 PM) and the school (closed after 5 PM) are vastly different.
3. The proposed jazz bar could positively contribute to area redevelopment, given the property's location along a gateway corridor and its proximity to Six Points.
4. Unusual chain of events and timing in response to COVID pandemic may have caused unanticipated hardships and may have led to premature closings.
5. CN-1 zoning already allows such uses as convenience stores with beer and wine sales, vape shops, payday loan stores and liquor stores by right.

Factors against the variance

1. 300 feet, as required by code, serves as a reasonable distancing standard based on sound planning practices; practice appears to be instrumental in promoting public health, safety and welfare by curtailing access to alcohol and its negative effects.
2. Petitioner has not clearly shown that proposed redevelopment is the highest and best use of the property.
3. Petitioner has not clearly shown that other uses allowed under a CN-1 zoning classification are not viable on the property.
4. Hardships may be self-imposed (i.e.: choice of location, preference of land use, overcoming obvious stigmas associated with the property in light of the preferred land use).

Staff Recommendation

Denial of the request for a variance to §4-5(a), Code of Ordinances allowing the sale of alcoholic beverages for on-premise consumption within 300 feet of a public or private school.

- City Council may approve, approve with conditions, or deny the variance request