

RESOLUTION NO. 2002- 76 R

A RESOLUTION GRANTING A VARIANCE FROM SECTION 14 -10(b) OF THE VICTORIA CITY CODE WHICH PROHIBITS THE SALE OF ALCOHOLIC BEVERAGES WITHIN 300 FEET OF A CHURCH, PUBLIC SCHOOL, OR PUBLIC HOSPITAL, TO THE PROPERTY LOCATED AT 6908 N. NAVARRO; AND DECLARING AN EFFECTIVE DATE.

Section 14-10(b) of the Victoria City Code prohibits any person and any agent, servant, or employee of such person from selling or offering for sale any alcoholic beverage at a place of business located within 300 feet of a church, public school, or public hospital.

Section 109.33(e) of the Texas Alcoholic Beverage Code provides that the City's governing body may allow a variance to this distance requirement if it determines that enforcement of the regulation in a particular instance:

- (1) is not in the best interest of the public;
- (2) constitutes waste or inefficient use of land or other resources;
- (3) creates an undue hardship on an applicant for a license or permit;
- (4) does not serve its intended purpose;
- (5) is not effective or necessary; or
- (6) for any other reason the City Council, after consideration of the health, safety, or welfare of the public and the equities of the situation, determines is in the best interest of the community

Elio Jaramillo, owner of the La Tejanita Restaurant, is considering the purchase of 6908 N. Navarro, Victoria, Texas, and has requested a variance of the distance regulation to obtain approval for a liquor license based on the continuous operation of a restaurant.

The City Council finds adequate evidence has been presented to establish that the variance would be proper because denial does not serve its intended purpose, and after consideration of the health, safety and welfare of the public and the equities of the situation, the variance is in the best interest of the community.

THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS:

1.

A variance from Section 14-10(b) of the Victoria City Code, which prohibits the sale of alcoholic beverages within 300 feet of a church, public school, or public hospital, in accordance with Section 109.33(e) of the Texas Alcoholic Beverage Code, is granted to the property located at 6908 N. Navarro, Victoria, Texas.

2.

This resolution shall become effective immediately upon adoption.

PASSED, this the 7th day of May, 2002.

AYES: 7

NAYS: 0

ABSTENTIONS:

APPROVED AND ADOPTED, this the 7th day of May, 2002.



ATTEST:

Scarlet Swoboda
SCARLET SWOBODA, City Secretary

Gary Middleton
GARY MIDDLETON, Mayor of the City of Victoria, Texas

APPROVED AS TO LEGAL FORM:

David Atmar Smith
DAVID ATMAR SMITH, City Attorney

Distribution: Legal Department

Copies Sent: MAY 9, 2002