

Variance	2550 Hunter Road
VR-24-08	Jorge's Mexican Restaurant



Summary

Request:	Variance to Section 5.1.5.5 of the San Marcos Development Code, regarding the sale and on-premise consumption of alcohol within 300 ft. of a public or private school.		
Applicant:	Jorge Ruiz Martinez 2550 Hunter Road, Ste 1106 San Marcos, TX 78666	Property Owner:	David Chiu 311 Luarel Hill, San Marcos, TX, 78666

Notification

Personal:	10/4/2024
Response:	None as of the date of this report

Property Description

Legal Description:	Hunters Hill Subdivision Section 1, Block 1, Lot 3A, Acres 1.921		
Location:	On Hunter Road, approximately 700 feet south of Foxtail Run		
Acreage:	1.921 acres	PDD/DA/Other:	N/A
Existing Zoning:	Community Commercial	Proposed Zoning:	Same
Existing Use:	Restaurant	Proposed Use:	Same
Preferred Scenario:	Existing Neighborhood	Proposed Designation:	Same
CONA Neighborhood:	Hunter's Hill	Sector:	Sector 9
Utility Capacity:	Adequate	Floodplain:	No
Historic Designation:	N/A	My Historic SMTX Resources Survey:	No

Surrounding Area

	Zoning	Existing Land Use	Preferred Scenario
North of Property:	Community Commercial/ General Commercial	Retail	Existing Neighborhood
South of Property:	Multifamily-24	Multifamily Apartments	Existing Neighborhood
East of Property:	General Commercial	Vacant/ Restaurant/ Retail	Employment Area
West of Property:	Public and Institutional	Middle School	Existing Neighborhood

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Staff Recommendation

Approval as Submitted	<input checked="" type="checkbox"/> Approval with Conditions	<input type="checkbox"/> Denial
<ol style="list-style-type: none"> The Variance shall be valid for one (1) year (concurrent with the associated Conditional Use Permit), provided standards are met; and The following statement shall be included on all restaurant menus: “Due to the close proximity of a school campus, please be alert for students and drive carefully. This restaurant will accommodate, as necessary, any individual that needs transportation after consuming alcoholic beverages”; and The restaurant shall operate such that gross revenue from alcohol sales will be less than 25% of total gross revenue for the business, with the restaurant submitting annual reports indicating this condition has been met. 		
Staff: Craig Garrison	Title : Planner	Date: 10/16/2024

History

This Variance application accompanies CUP-24-51 Jorge's Mexican Restaurant, and is for relief to the 300 ft. distance requirement from public or private schools. A CUP and variance to the distance requirement were previously approved at this location in 2023 for Jorge's Mexican Restaurant (CUP-23-39 and VR-23-09) and in 2021 for a different restaurant (CUP-21-14 and VR-21-14.)

Additional Analysis

Section 2.8.3.7 of the Land Development Code requires that the governing officer of the school board provide a letter of no-objection to request for a distance variance less than 300' from a school. A letter from the Superintendent of San Marcos CISD is included in the application packet. The letter states that the School District does not object to the issuance of the inclusion of the following language in the menu: “Due to the close proximity of a school campus, please be alert for students and drive carefully. This restaurant will accommodate, as necessary, any individual that needs transportation after consuming alcoholic beverages.”

The applicant's representative has agreed to add the above language to the menu, and this has been proposed as a condition. The Code also requires that the primary entrance of the business be more than 200' from that of the school. The primary entrance of the school was verified with a representative of the School District, and the distance between the two primary entrances is approximately 740'.

The applicant must conduct its business in a manner to insure that its gross revenue from the sale of alcohol shall be less than twenty-five (25) percent of the total gross revenue. Per the applicant's representative, alcohol sales are anticipated to constitute between 10-15% of the total revenue, and an annual report indicating that alcohol sales make up less than 25% of the total revenue has been proposed as a condition to this approval. In the last year, Jorge's alcohol as percentage of sales is reported to be 12.78%, which meets this requirement.

Comments from Other Departments

Police	No Calls Reported
Fire	Comment or No Comment
Public Services	Comment or No Comment
Engineering	Comment or No Comment
Health/Code	Comment or No Comment

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Evaluation			Criteria for Approval (Sec. 2.8.3.7)
Consistent	Inconsistent	Neutral	
<u>X</u>			The applicant is not a bar or package store.
<u>X</u>			The business seeking the variance is a restaurant that agrees to limit its operation characteristics such that the restaurant shall maintain its business in a manner to insure that its gross revenue from the sale of alcohol shall be less than twenty-five (25) percent of the total gross revenue of the business.
<u>X</u>			There is a distance of at least two hundred (200) feet from the primary entrance of the school measured using a straight line. There is a distance of approximately 740' between primary entrances.
<u>X</u>			For each neighboring church or school that is within the distances of the proposed restaurant, as described in and measured in accordance with Section 5.1.5.5, the proposed restaurant shall present a letter describing the operation characteristics of the restaurant and shall obtain a statement signed by the governing officer of the board of any such church or school stating that the church or school does not oppose the granting of the distance variance based on the operation characteristics stated in the letter. A letter from the Superintendent of the San Marcos Consolidated Independent School District is included in the application packet. The letter does not object to the granting of the CUP/ Variance subject to the inclusion of language on the menu.
<u>X</u>			The business must agree, in writing, to restrict its operation characteristics as set forth in the request to the church or school, as may have been set forth in the request to the church or school. These operating characteristics shall be included in the conditional use permit.
<u>X</u>			The business shall agree to file an annual report, due forty-five (45) days before the hearing on the annual conditional use permit renewal, setting forth the gross sales of the business and the gross sales derived from the sale of alcoholic beverages. This has been recommended as a condition on the proposed CUP (CUP-24-51).