

Distance Variance	2550 Hunter Rd, Suite 1106
VR-21-14	El Jefe Mexican Restaurant



Summary

Request:	A 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:	Edwin Mendez, El Jefe Mexican Restaurant, 2550 Hunter Rd, Ste 1106, San Marcos, 78666	Property Owner:	David Chiu 311 Laurel Hill, San Marcos, TX, 78666

Notification

Posted:	April 29, 2021	Personal:	April 22, 2021
Response:	None as of the date of this report		

Property Description

Legal Description:	Hunters Hill Subd Sec 1, Block 1, Lot 3A, Acres 1.921		
Location:	Hunter Road between Foxtail Run and Suttles Ave.		
Acreage:	1.92	Central Business Area:	No
Existing Zoning:	Commercial	Preferred Scenario:	Medium Intensity
Existing Use:	Restaurant	Proposed Use:	Restaurant / Bar
CONA Neighborhood:	Hunters Hill	Sector:	9
Utility Capacity:	Adequate		

Surrounding Area

	Zoning	Existing Land Use	Preferred Scenario
Northeast of Property:	P - Public	Doris Miller Middle School	Medium Intensity
Northwest of Property:	CC – Community Commercial	Mixed Use/ Commercial	Medium Intensity
Southeast of Property:	MF-24	Multifamily Apartments	Medium Intensity
Southwest of Property:	GC – General Commercial	Mixed Use/ Commercial	Medium Intensity

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History

This variance accompanies the Conditional Use Permit application CUP-21-14 *El Jefe Mexican Restaurant* for the sale of mixed beverages in an existing restaurant. Due to its proximity to the Doris Miller Middle School, the applicant is seeking variance from Section 5.1.5.5 of the Local Development Code which precludes the issuance of alcohol CUPs less than 300' from a public or private school.

The property previously housed the Komal Latin Kitchen, which received a Conditional Use Permit and associated Variance to serve alcohol in 2017.

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'.

Finally, the applicant must 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.

Comments from Other Departments

Police	No issues or concerns at present time.
Fire	No issues or concerns at present time.
Public Services	No issues or concerns at present time.
Engineering	No issues or concerns at present time.
Health Department	No issues or concerns at present time

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Staff Recommendation

Approval as Submitted	<u>X</u>	Approval with Conditions / Alternate	Denial
<p>1. The Variance shall be valid for one (1) year (concurrent with the associated Conditional Use Permit), provided standards are met; and</p> <p>2. 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</p> <p>3. 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.</p>			
Staff: Julia Cleary		Title : Planner	Date: April 29, 2021

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 ensure 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.

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Evaluation			Criteria for Approval (Sec. 2.8.3.7)
Consistent	Inconsistent	Neutral	
<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-21-14).