

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: January 23, 2012
	Agenda Item No. 43 Roll Call No. [_____] Communication No. <u>12-034</u> Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Review Board of Adjustment decision to approve a variance of the 150-foot separation requirement from a school for sale of alcoholic liquor at a Vom Fass limited food sales establishment located within the Shops at Roosevelt commercial retail center at 833 42nd Street.

SYNOPSIS:

On December 21, 2011 the Zoning Board of Adjustment voted 7-0 to approve a variance of the 150-foot separation requirement from a school (Hubbell Elementary School) for sale of alcoholic liquor at a Vom Fass limited food sales establishment located within the Shops at Roosevelt commercial retail center at 833 42nd Street.

The Decision and Order of the Zoning Board of Adjustment’s action was executed under the signature of Chairman Bill Gray on December 29, 2011. Pursuant to Section 135-65 of the City Code, the City Council shall review the Board’s decision within 30 days after the decision is filed. After such review, the City Council may remand the decision to the Board for further study. If the City Council declines to remand the Board’s decision, that decision shall become final on the date of the City Council’s action (January 23, 2012). Staff recommends that the City Council not remand the Board’s decision.

FISCAL IMPACT: NONE

Amount: N/A

Funding Source: N/A

ADDITIONAL INFORMATION:

The Shops at Roosevelt commercial shopping center is located on the east side of 42nd Street and is located 70 feet from Hubbell Elementary School.

Vom Fass is a specialty food retailer that sells a variety of oils, vinegars, balsamics, wines and rare spirits used primarily for cooking. These products will be sold in bulk from their casks and may be sampled, under the Mediterranean tradition, on site before they are transferred to a vessel for purchase. The business is seeking to complement the existing French bakery and cheese shop within the commercial center. Less than 40% of gross revenue for the Vom Fass limited food sales establishment would be derived from the sale of tobacco products, alcoholic liquor, wine and/or beer.

The Board of Adjustment's decision to approve the request was subject to the following conditions:

1. Any sale of alcoholic liquor, wine and/or beer shall be accessory to a food sales establishment, where no more than 40% of the business' gross revenue is derived from the sale of tobacco products, alcoholic liquor, wine and/or beer.
2. Any sale of alcoholic liquor, wine and/or beer shall be in accordance with the proper license obtained through the Office of the City Clerk, as approved by the City Council.
3. Any renovations or interior alterations shall be in compliance with all applicable Building and Fire Codes, with issuance of all necessary permits by the City's Permit and Development Center.
4. The Conditional Use Permit shall be subject to amendment or revocation if the Zoning Enforcement Officer determines that the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the conditional use permit.

PREVIOUS COUNCIL ACTION(S): NONE

BOARD/COMMISSION ACTION(S):

Board: Board of Adjustment

Date: December 21, 2011

Resolution Number: ZON2011-00204

Action: Approval of a variance of the 150-foot separation requirement from a school for sale of alcoholic liquor at a Vom Fass limited food sales establishment located within the Shops at Roosevelt commercial retail center at 833 42nd Street.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.