



Memo

To: Mayor and City Council

FROM: Michael Florence

DATE: May 6, 2015

RE: Class B Alcohol Variance

File Number:

MICHAEL FLORENCE
DIRECTOR

FRANCIS LILLY
DEPUTY DIRECTOR

PLANNING & ZONING

O 801.483.6011
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Pats BBQ is petitioning the City Council for a proximity variance to sale alcohol at his restaurant as per City ordinance 5.08. Recently, the owner of Pats BBQ, Pat Barber, lost his wife to a sudden passing. The alcohol license was in the name of his wife which under the Title 5 requires a transfer of ownership to continue sales for on-site alcohol consumption. The City Council granted the original proximity variance in November 2005. The meeting minutes from that hearing are attached. The proximity variance is required because the restaurant premise is within 600 feet of the Rock Church which is located directly west near the Trax line. Pats BBQ and the church are approximately 260 feet apart.

As per ordinance 5.08.100, Pat's BBQ must receive written consent from the Rock Church in order for the variance to be approved. Attached is the consent letter from the church. The variance request will be held as a public hearing and staff is recommending approval of the variance since there is no change in the business establishment and operations. Staff believes that granting the variance would not be detrimental to the public health, peace, safety, and welfare of the community. Pat's BBQ has a good reputation within the community and is a destination restaurant that brings in people from all over the County. Current alcohol sales practices of the business appear to be in line with City and State codes.

Attachments:

- Aerial photo
- Applicable alcohol code section
- 2005 City Council meeting minutes
- Consent letter from the Rock Church

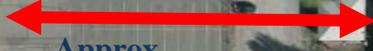
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MAYOR

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Central
Points

Commonwealth Ave



Approx.
260 ft

5.08.090 - Proximity restrictions.

A. No premise requiring a license or consent from the city to sell, serve or distribute alcohol for consumption on premise shall be located within six hundred (600) feet of any public or private school, church, public library, public playground, or park, as measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground, school playground, or park.

B. No premise requiring an off-premises beer retailer licensee shall be established within two hundred (200) feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, or park.

(Ord. 2008-03 (part): Ord. 2005-17 (part): Ord. 2005-12 (part))

5.08.100 - Proximity restriction variance.

The restrictions contained in Section 5.08.090 govern unless one of the following exceptions applies:

A. With respect to the establishment of a premise that sells, serves or distributes alcohol, the city council may authorize a variance that reduces the proximity requirements of Section 5.08.090 and may also authorize the mayor to give the city's consent to the state's Alcoholic Beverage Commission if:

1. Alternative locations for establishing the premise in the community are limited,
2. A public hearing has been held, and
3. After giving full consideration to all of the attending circumstances, the city council determines that establishing the premise would not be detrimental to the public health, peace, safety, and welfare of the community; or

B. With respect to the establishment of a premise in any location, the city council may authorize a variance to reduce the proximity requirements of Section 5.08.090 in relation to a church and may also authorize the mayor to give the city's consent to the state's Alcoholic Beverage Commission if:

1. The local governing body of the church in question gives its written consent to the variance,
2. Following a public hearing, and
3. After giving full consideration to all of the attending circumstances, the city council determines that establishing the premise would not be detrimental to the public health, peace, safety, and welfare of the community.

(Ord. 2008-03 (part): Ord. 2005-17 (part): Ord. 2005-12 (part))

5.08.110 - Change in ownership.

When a change in ownership occurs, the business shall notify the city within five business days of the change. A new application for a license or consent shall be required at that time by the new owner. The application of the new owner shall be processed in order of priority as determined by the new owner's position on the license/consent waiting list described in Section 5.08.120.

(Ord. 2008-03 (part): Ord. 2005-17 (part): Ord. 2005-12 (part))



*The City of South Salt Lake
220 East Morris Ave., Suite 200
South Salt Lake, UT 84115
(801) 483.6000 Fax (801) 483.6001*

AGENDA

PUBLIC NOTICE IS HEREBY GIVEN THAT THE SOUTH SALT LAKE CITY COUNCIL WILL HOLD A REGULAR MEETING ON **WEDNESDAY, NOVEMBER 16, 2005** IN THE CITY COUNCIL CHAMBERS, 220 EAST MORRIS AVENUE, COMMENCING AT 7:00 P.M., OR AS SOON THEREAFTER AS POSSIBLE

CONDUCTING: L. Shane Siwik
Council Member, District #5

COUNCIL CHAIR: Robert Gray

OPENING CEREMONIES

- | | |
|--|---------------|
| 1. Welcome/Introductions – Acknowledge Visitors | Shane Siwik |
| 2. Serious Moment of Reflection/Pledge of Allegiance | Bill Anderson |

The City Council invites any person with a significant connection to our community to participate at an upcoming City Council Meeting by presenting a serious moment of reflection at the commencement of the meeting. Persons interested in volunteering for this public service should contact the City Recorder at 483-6027 for more details no later than 8:00 a.m. on the Friday preceding a scheduled City Council Meeting. The next regular Council meeting is scheduled for Wednesday, December 7, 2005.

APPROVAL OF MINUTES

March 24, 2004
April 7, 2004
April 21, 2004

NO ACTION COMMENTS

- | | |
|--|----------|
| 1. Information | |
| 2. Scheduling | Recorder |
| 3. Mayor Comments | |
| 4. City Council Comments | |
| 5. Citizen Comments/Questions | |
| (a) Response to Comments/Questions | |
| (at discretion of Conducting Council Member) | |

SEE PAGE TWO FOR CONTINUATION OF AGENDA

ACTION ITEMS

Consent Agenda

NO ITEMS

Unfinished Council Business

1. Review of Ordinance 2005-12 Regulating the Sale, Service and Distribution of Alcoholic Beverages (from Work Meeting November 2, 2005) David Carlson

New Council Business

NO ITEMS

PUBLIC HEARING – 7:30 p.m. (or as soon thereafter as the matter may be heard)

To receive public comment concerning Pat's Barbecue & Catering Co., 155 West Commonwealth Avenue, who is requesting a variance from proximity restrictions under the City of South Salt Lake's Alcohol Ordinance to obtain a restaurant beer license.

Procedure for Hearing:

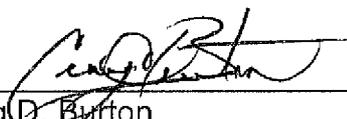
1. David Carlson, for the City, to present information and answer questions
2. Open Public Hearing
3. Receive Public Input
4. Close Public Hearing
5. Discussion by the City Council
6. At Conclusion of Discussion by Council, Motion and Second by Council
 - a. To table action until a future specified meeting date;
 - b. To take it to a work meeting for further discussion; or
 - c. To take final action on the matter

THOSE NEEDING AUXILIARY COMMUNICATIVE AIDS OR OTHER SERVICES FOR THIS MEETING SHOULD CONTACT CRAIG BURTON AT 483-6027, GIVING AT LEAST 24 HOURS' NOTICE

CRAIG D. BURTON, CITY RECORDER
NOVEMBER 10, 2005

Each of the Deseret News and Salt Lake Tribune was advised of the Agenda of the Regular Meeting of the City Council to be held Wednesday, November 16, 2005, by fax transmittal of the foregoing agenda on Thursday, November 10, 2005.

Dated this 10th day of November, 2005.



Craig D. Burton
City Recorder

Citizen Comments/Questions Policy

Time is made available for anyone in the audience to address the Council and/or Mayor concerning matters pertaining to City business. When a member of the audience addresses the Council and/or Mayor, he or she will come to the podium and state his or her name and address. Citizens will be asked to limit their remarks/questions to five (5) minutes each. The Conducting Councilmember shall have discretion as to who will respond to a comment/question. In all cases the criteria for response will be that comments/questions must be pertinent to City business, that there are no argumentative questions and no personal attacks. Some comments/questions may have to wait for a response until the next regular Council meeting. The Conducting Councilmember will inform a citizen when he or she has used the allotted time. Grievances by City employees must be processed in accordance with adopted personnel rules.

Mr. Atkinson said he would like to see fire trucks 43 and 42 go through without hitting anything or going on the curb. He doesn't think they can and he doesn't like it.

Jeanette Potter, 133 East 2400 South. She asked what is going on with Hinckley Dodge and the property they're trying to change to commercial.

Council Member Siwik explained there was a work meeting last night (November 15, 2005) that looked at some options and that it was going to another work meeting.

Council Member Anderson said they didn't get to the point of looking at options. A lot of time was spent looking at the General Plan and how it applied to this case. The general consensus was that all sides were willing to continue to talk about it. The next step is to deal with issues and concerns on both sides of this question from the perspective of the residents and the perspective of the business and then see if we can come up with a solution that benefits everybody.

Ms. Potter asked when the next work meeting would be. Council Member Anderson said that has not been scheduled at this point.

Council Member Siwik told Ms. Potter to talk to the City Recorder and he would see that she gets an agenda for that next work meeting.

Council Member Marshall commented that he didn't care if the round about at Garden Avenue and 200 East is there or not but there are some inherent problems with it. People do park way too close and then you can't get around. The other problem that upsets him is that when the cars go around there they have to go into what should be the crosswalk. He's seen kids going to school almost get hit there because someone doesn't care that they're in the crosswalk as they go around the corner.

Mayor Losser stated it hasn't been finished with the striping yet.

UNFINISHED COUNCIL BUSINESS

1. Review of Ordinance 2005-12 Regulating the Sale, Service and Distribution of Alcoholic Beverages

David Carlson told the Council that the Ordinance they have in front of them makes the changes that the Council recommended at the last meeting. This version allows a prospective new owner of an existing business to obtain a license even though the number of licenses that are issued exceed the cap the City has set. That is one of the two textural changes the Council requested. They are all

listed in the memo Mr. Carlson gave them. They are 5.08.110, 5.08.120 and 5.08.410 f

(2). With those changes the existing owner can sell the business as long as the prospective buyer can meet the requirements of the City and State for a license, they can get licensed. The other section that's been changed is 5.08.400 a(2) that restricted sale of beer on Sundays is repealed.

Council Member Anderson asked if the transfer, essentially, of a license from one owner to another nullifies the impact of the cap in the ordinance to limit the amount of licenses in the City.

Mr. Carlson stated in time the amount of licenses could still be reduced. It would have to happen through involuntary revocation of a license. There have been occasions where the owner has died and they haven't sold the business. So there are other ways that licenses are no longer used.

Council Member Anderson asked if there are provisions in the Ordinance that if there is a violation of the ordinance a license can be revoked. So that's another way for the reduction to occur. Mr. Carlson stated that was correct.

Council Member Marshall moved that the Ordinance be passed as now outlined.

MOTION: Boyd Marshall
SECOND: Poponatui Sitake

Roll Call Vote:

Anderson	Aye
Brusch	Aye
Gray	Aye
Marshall	Aye
Sitake	Aye
Siwik	Aye
Watts	Aye

PUBLIC HEARING -- 7:30 p.m.

To receive public comment concerning Pat's Barbecue & Catering Co., 155 West Commonwealth Avenue, who is requesting a variance from proximity restrictions under the City of South Salt Lake's Alcohol Ordinance to obtain a restaurant beer license.

Mr. Carlson stated Pat's Barbeque has been in the city for quite some time. They have

catered some City events. They have a restaurant in the industrial part of the City on 155 West Commonwealth Avenue. They came to the City several months ago and asked to get a restaurant beer license so they could sell beer with their food. The City issued them a beer license because they are in an area where that would be allowed. Then when they went to the State of Utah to get their state license the State would not license them because they found out there was a church that the City wasn't aware of. It's kind of a boutique church. It's The Rock Church. It's in an office building. It's in the proximity restriction that would disqualify Pat's from getting their restaurant beer license. The State made Pat's aware of the variance procedure where they can make a variance to the proximity rule if they could get The Rock Church's consent. They did get the consent and the State was prepared to issue them a license. When they came back to the City we found out about the churches. We had to deny the license. The City had no provision to give variance. But we told Pat's to be patient, to wait until we'd had a chance for the City Council to consider the new changes to the alcohol ordinance because one of the new provisions in the ordinance is a variance procedure that mirrors the State law. So now we do have a procedure where we can give a variance just as the Alcoholic Beverage Commission can grant a variance to the proximity restriction. It's in the alcohol ordinance if you want to look in the text. It begins at the bottom of page six. It is section 5.08.100 Proximity Restriction Variance. As I indicated this just mirrors the language of the State law. And then paragraph b right at the very bottom of the page. "With respect to the establishment of a premise in any location, the City Council may authorize a variance to reduce the proximity requirements of Section 5.08.090 in relation to a church and may also authorize the Mayor to give the City's consent to the state's Alcoholic Beverage Commission if:" Then there's three criteria. "The local governing body of the church in question gives its written consent to the variance." In this case the churches have given their written consent to the variance. "Following a public hearing;" We're holding that tonight. "After giving full consideration to all of the attending circumstances the City Council determines that establishing the premise would not be detrimental to the public health, peace, safety, and welfare of the community." So that's the issue that's before you. Pat's Barbeque has petitioned for a variance from the proximity restriction. If you have any questions of me I'd be happy to answer them.

Council Member Marshall asked if Mr. Carlson knew how close the churches are to Pat's Barbeque. Council Member Anderson answered that both churches occupy one building that is 315 feet to the west of Pat's. Mr. Carlson didn't recall what the measurements were.

Council Member Siwik opened the hearing for public comment at 8:05 p.m.

Lezlie Chester, Pat's Barbeque, 155 West Commonwealth Avenue. I have given you a folder to look at and I wanted to make a note that the menu in there would be the menu if we get beer license. We currently do not sell beer. So I just wanted to make that clear. We are 315 feet from the entrance to the church and it's west of where we are. Commonwealth is a dead end street and then there's a gate opening to a private entrance

and the warehouse where the churches occupy are right close to the tracks.

Public hearing closed at 8:07 p.m.

Council Member Brusch asked if we knew when the church meets and is open. Ms. Chester stated that she knows they have a Saturday night meeting. She thinks it's The Rock Church that meets Saturday night and the K2 Church meets on Sunday. Council Member Siwik asked if Pat's was open on Sunday's and Ms. Chester answered they are not and they close at 8:00 p.m. on Saturdays. Council Member Brusch asked when the church met on Saturdays. Ms. Chester said she sees the cars start to go over there at 6:30 p.m.

Council Member Anderson asked if there were any restrictions on these types of licenses. Mr. Carlson said the City did put a cap on them in the alcohol ordinance but the cap is twenty-two and we only have eleven outstanding.

Council Member Marshall stated this is a different circumstance than one for a tavern. This is more just to sell something with a meal. Council Member Anderson said he does not have a lot of concern. It's in an appropriate location. There are not a lot of residents. The hours of operation don't conflict too heavily with the Church. Council Member Siwik agreed.

Council Member Watts moved to grant the variance request.

MOTION: Renee Watts
SECOND: Boyd Marshall

Roll Call Vote:

Anderson	Aye
Brusch	Aye
Gray	Aye
Marshall	Aye
Sitake	Aye
Siwik	Aye
Watts	Aye

Council Member Anderson made a point of personal privilege that he thinks it's important for the City to cultivate these types of restaurants. It's an opportunity for us to have little holes in the wall where people will want to come and enjoy some good food and be in the City. We certainly don't have a lot of any kind of restaurants other than fast food restaurants in this City. So I think this is a welcomed addition to restaurants in the City.

The Council then went into an Executive Session to discuss the purchase of property.

Council Member Anderson made a motion to go into Executive Session.

MOTION: Bill Anderson
SECOND: Bob Gray

Vote was unanimous.

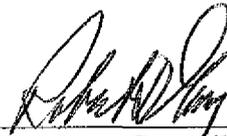
Council meeting was adjourned in Executive Session at 8:10 p.m.

Council came back from Executive Session and adjourned City Council Meeting.

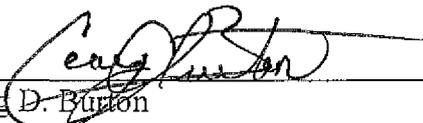
Council Member Marshall moved to adjourn the Council Meeting.

MOTION: Boyd Marshall
SECOND: Renee Watts

Council Meeting adjourned at 8:30 p.m.



Robert Gray, Council Chair



Craig D. Burton
City Recorder

Date: May 5, 2015

To Whom It May Concern:

It has come to our attention Pat's Barbecue, located at 155 W. Commonwealth Ave, Salt Lake City, Utah 84115, has applied for a license to sale/serve liquor/beer. We at The Rock Church are aware of this license application and would allow them to sell this type of product at their restaurant. We have no objection.

Regards,

Steele Croswhite
Pastor
The Rock Church

