

<b>Conditional Use Permit</b>	<b>312 West Hopkins Street</b>
<b>CUP-24-05</b>	<b>Gumby's</b>



**Summary**

<b>Request:</b>	Renewal of a Conditional Use Permit		
<b>Applicant:</b>	Gumbys of San Marcos 312 W. Hopkins San Marcos, TX 78666	<b>Property Owner:</b>	312 Ventures LLC 14209 Montour Dr. Austin, TX 78717
<b>CUP Expiration:</b>	11/10/2023	<b>Type of CUP:</b>	Restaurant
<b>Interior Floor Area:</b>	3200 square feet	<b>Outdoor Floor Area:</b>	600 square feet
<b>Parking Required:</b>	11 space	<b>Parking Provided:</b>	Yes
<b>Days &amp; Hours of Operation:</b>	Sunday – Saturday: 11 am – 12am		

**Notification**

<b>Posted:</b>	3/8/2024	<b>Personal:</b>	3/8/2024
<b>Response:</b>	None as of the date of this report		

**Property Description**

<b>Legal Description:</b>	Original Town of San Marcos, Block 2, Lot 17		
<b>Location:</b>	West Hopkins Street		
<b>Acreage:</b>	0.294 acres	<b>PDD/DA/Other:</b>	N/A
<b>Existing Zoning:</b>	CD-5D	<b>Proposed Zoning:</b>	Same
<b>Existing Use:</b>	Restaurant	<b>Proposed Use:</b>	Same
<b>Preferred Scenario:</b>	High Intensity Zone	<b>Proposed Designation:</b>	Same
<b>CONA Neighborhood:</b>	Downtown	<b>Sector:</b>	Sector 8
<b>Utility Capacity:</b>	Adequate	<b>Floodplain:</b>	No
<b>Historic Designation:</b>	N/A	<b>My Historic SMTX Resources Survey:</b>	No

**Surrounding Area**

	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Preferred Scenario</b>
<b>North of Property:</b>	CD-5D	Residential/ Office	High Intensity Zone
<b>South of Property:</b>	CD-5D	Office/Retail	High Intensity Zone
<b>East of Property:</b>	CD-5D	Retail	High Intensity Zone
<b>West of Property:</b>	CD-5D	Retail/Restaurant/Bar	High Intensity Zone

**Staff Recommendation**

Approval as Submitted	<input checked="" type="checkbox"/>	<b>Approval with Conditions</b>	<input type="checkbox"/>	Denial
<ol style="list-style-type: none"> <li>The permit shall be valid for three (3) years, provided standards are met;</li> <li>The permit shall be posted in the same area and manner as the Certificate of Occupancy;</li> <li>Live music shall not be allowed outdoors or in any unconditioned areas;</li> <li>The applicant shall not apply for a Late Hours TABC permit; and</li> <li>The business shall be responsible for maintaining the sidewalk, gutters, parking lot, all areas within 100 feet of any exit, and all areas of the permitted property in a clean and sanitary condition, free from litter and refuse at all times.</li> </ol>				
<b>Staff:</b> Craig Garrison		<b>Title :</b> Planner		<b>Date:</b> 3/20/2024

**Conditional Use Permit  
CUP-24-05**

**312 West Hopkins Street  
Gumby's**



### History

The applicant first applied for a Conditional Use Permit for alcohol sales at this location in 2016 prior to the business being operational. The timeline below gives an overview of the Planning & Zoning Commission and City Council meeting.

December 13, 2016 – Planning & Zoning Commission Meeting: After numerous citizens addressed concerns with the request, the Commission voted unanimously to postpone to allow the Applicant to address neighbors' concerns.

January 10, 2017 – Planning & Zoning Commission Meeting: The Commission voted (5-1-1) to approve the request with the following conditions:

1. The CUP shall be valid for one (1) year, provided standards are met, subject to the point system;
2. The permit shall be effective upon the issuance of the Certificate of Occupancy;
3. The CUP shall be posted in the same area and manner as the Certificate of Occupancy;
4. The applicant cannot apply for a late hours TABC permit;
5. Bottles can only be disposed of during daylight hours; and
6. Speakers are not permitted outdoors.

January 20, 2017: Staff received an appeal request from Kathryn C. Dillon.

February 2, 2017 – City Council Meeting: The City Council voted 5-2 to approve the appeal and deny the Conditional Use Permit.

February 2, 2018: Gumby's Pizza received a Certificate of Occupancy and opened for business without alcohol sales.

October 8, 2019 – Planning & Zoning Commission Meeting: The Commission voted 8-0 to approve the request with the following conditions:

1. The permit shall be valid for one (1) year, provided standards are met;
2. The permit shall be posted in the same area and manner as the Certificate of Occupancy;
3. Live music shall not be allowed outdoors or any unconditioned areas; and
4. The applicant shall not apply for a Late Hours TABC permit.

November 10, 2020 – Planning & Zoning Commission Meeting: The Commission voted 6-0 to approve the request with the following conditions:

1. The permit shall be valid for three (3) years, provided standards are met;
2. The permit shall be posted in the same area and manner as the Certificate of Occupancy;
3. Live music shall not be allowed outdoors or in any unconditioned areas; and
4. The applicant shall not apply for a Late Hours TABC permit.
5. The business shall be responsible for maintaining the sidewalk, gutters, parking lot, all areas within 100 feet of any exit, and all areas of the permitted property in a clean and sanitary condition, free from litter and refuse at all times.

### Additional Analysis

Staff is recommending approval with the same conditions that were approved in 2019 and 2020 approvals.

<b>Conditional Use Permit</b>	<b>312 West Hopkins Street</b>
<b>CUP-24-05</b>	<b>Gumby's</b>



<b>Police</b>	No Calls Reported
<b>Fire</b>	No Comment
<b>Public Services</b>	No Comment
<b>Engineering</b>	No Comment

Evaluation			Criteria for Approval (Sec. 2.8.3.4 & 5.1.5.5)
Consistent	Inconsistent	Neutral	
		<u>X</u>	The proposed use at the specified location is consistent with the policies embodied in the adopted comprehensive plan.
		<u>N/A</u>	The proposed use is consistent with any adopted neighborhood character study for the area. <b><i>Studies have not been completed at the time of this request</i></b>
<u>X</u>			The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations.
<u>X</u>			The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods.
<u>X</u>			The proposed use does not generate pedestrian and vehicular traffic which shall be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
		<u>X</u>	The proposed use incorporates roadway adjustments, traffic control devices or mechanisms and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets.
<u>X</u>			The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties.
<u>X</u>			The proposed use meets the standards for the applicable district, or to the extent variations from such standards have been requested that such variations are necessary to render the use compatible with adjoining development and the neighborhood.
<u>X</u>			The proposed use is not within 300 ft. of a detached single family residence located in a zoning district that only permits detached single family residences.
<u>X</u>			The proposed use is not within 300 ft. of a church, public or private school, or public hospital.
<u>X</u>			The proposed use is not within 1,000 ft. of a public or private school as outlined within section 1.5.1.1.