Conditional Use Permit 312 West Hopkins Street CUP-24-05 Gumby's



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

Notification

- TOUTHOUGH				
Posted:	3/8/2024	Personal:	3/8/2024	
Response:	None as of the date of this report			

Property Description

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

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

Staff Recommendation

Approval as Submitted	X Approval with Conditions	Denial
4		

- 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;
- 4. The applicant shall not apply for a Late Hours TABC permit; and
- 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.

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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:

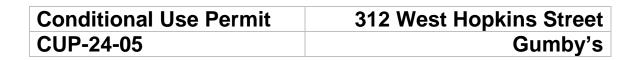
- 1. The permit shall be valid for one (1) year, provided standards are met;
- 2. The permit shall be posted in the same area and manner as the Certificate of Occupancy;
- 3. Live music shall not be allowed outdoors or any unconditioned areas; and
- 4. The applicant shall not apply for a Late Hours TABC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





Police	No Calls Reported	
Fire	No Comment	
Public Services	No Comment	
Engineering	No Comment	

Evaluation			Critaria for Approval (Cap. 2.9.2.4.9 E.4.E.E.)
Consistent	Inconsistent	Neutral	Criteria for Approval (Sec. 2.8.3.4 & 5.1.5.5)
		<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. Studies have not been completed at the time of this request
<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.