

<b>Conditional Use Permit</b>	<b>202 N LBJ Drive Suite A</b>
<b>CUP-26-23</b>	<b>Axis Bar</b>



**Summary**

<b>Request:</b>	Renewal of a Conditional Use Permit		
<b>Applicant:</b>	Henry Hogensen 202 N LBJ Dr, Ste A San Marcos, TX 78666	<b>Applicant:</b>	Henry Hogensen 202 N LBJ Dr, Ste A San Marcos, TX 78666
<b>CUP Expiration:</b>	6/10/2025	<b>Type of CUP:</b>	CBA Restaurant Mixed Beverage
<b>Interior Floor Area:</b>	+/- 3,300 sq ft	<b>Outdoor Floor Area:</b>	600 sq ft
<b>Parking Required:</b>	N/A	<b>Parking Provided:</b>	N/A
<b>Request:</b>	Monday-Sunday: 6pm-2am		

**Notification**

<b>Posted:</b>	May 8, 2026	<b>Personal:</b>	May 8, 2026
<b>Response:</b>	None as of the date of this report		

**Property Description**

<b>Legal Description:</b>	Block 7 Lot 8 in the Original Town of San Marcos Subdivision		
<b>Location:</b>	Northeast corner of E Hopkins Street and N LBJ Drive		
<b>Acreage:</b>	0.303 acres	<b>PDD/DA/Other:</b>	N/A
<b>Existing Zoning:</b>	Character District 5 Downtown (CD-5D)	<b>Proposed Zoning:</b>	Same
<b>Existing Use:</b>	Restaurant	<b>Proposed Use:</b>	Same
<b>Preferred Scenario:</b>	Mixed Use Medium	<b>Proposed Designation:</b>	Same
<b>CONA Neighborhood:</b>	Downtown (CBA)	<b>Sector:</b>	8
<b>Utility Capacity:</b>	Adequate	<b>Floodplain:</b>	No
<b>Historic Designation:</b>	Downtown Historic District	<b>My Historic SMTX Resources Survey:</b>	Yes and High Priority

**Surrounding Area**

	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Preferred Scenario</b>
<b>North of Property:</b>	Character District 5 Downtown (CD-5D)	Restaurant/ Bar/ Retail Services	Mixed Use Medium
<b>South of Property:</b>	Character District 5 Downtown (CD-5D)	Restaurants/ Retail Services	Mixed Use Medium
<b>East of Property:</b>	Character District 5 Downtown (CD-5D)	Restaurant	Mixed Use Medium
<b>West of Property:</b>	Character District 5 Downtown (CD-5D)	Bars	Mixed Use Medium

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**Staff Recommendation**

Approval as Submitted	<input checked="" type="checkbox"/> Approval with Conditions	Denial
<ol style="list-style-type: none"> <li>This permit shall be valid for three (3) years, and shall expire May 26, 2029, provided standards are met.</li> <li>The business is responsible for cleaning the area within 100 feet of exit (LDC Section 5.1.5.5.E.2.d)</li> <li>The business must have a kitchen and food storage facilities of sufficient size to enable food preparation. The kitchen must be equipped with, and must utilize, a commercial grill, griddle, fryer, oven, or similar heavy food preparation equipment;</li> <li>The business must serve meals to customers during at least two meal periods each day the business is open. A meal must consist of at least one entree, such as a meat serving, a pasta dish, pizza, a sandwich or similar food in a serving that serves as a main course for a meal. At least three entrees must be available during each meal period. A meal period means a period of at least four hours;</li> <li>The business must be used, maintained, advertised and held out to the public as a place where meals are prepared and served;</li> <li>The maximum people occupying the building is required to remain compliant with the fire code, to include ensuring that occupant loads stay at or below posted levels;</li> <li>This permit shall be posted in the same area and manner as the Certificate of Occupancy.</li> </ol>		
<b>Staff:</b> Craig Garrison	<b>Title:</b> Planner	<b>Date:</b> May 20, 2026

**History**

Axis has held a “Restaurant (Eating Establishment)” Conditional Use Permit (CUP) since 2024. In accordance with the Development Code, a “Restaurant (Eating Establishment)” located within the Central Business Area (CBA) must meet certain standards related to kitchen equipment, meal periods, advertisement, and cleanliness outlined in Section 5.1.5.5.B.4.b.

**2024:** The business submitted a Restaurant CUP which was approved by the Planning and Zoning Commission for six months, with conditions. The business owner changed the name of the business to ‘Axis’ and opened in February of 2020. Staff issued a Certificate of Occupancy for Axis without communicating that a new Conditional Use Permit would be required. For this reason, the business owner was under the impression that the lifetime CUP issued to Kiva would continue through the name change. Staff recommended one-year due to extra time that Axis had gone without a CUP from 2020-2024.

**2025:** The renewal of the Restaurant CUP was approved by the Planning and Zoning Commission for one year with conditions. Staff recommended one-year due to extra time that Axis had gone without a CUP from 2020-2024.

**Additional Analysis**

Senate Bill 1008 provides provisions on the city’s ability to prohibit amplified sound at a restaurant. Per this bill and staff’s analysis, the City can enforce the existing noise ordinance.

**Comments from Other Departments**

<b>Police</b>	See Attached Police Report
<b>Fire</b>	No Comment
<b>Public Services</b>	No Comment
<b>Engineering</b>	No Comment
<b>Health/Code Compliance</b>	No Comment

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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 small area plan or neighborhood character study for the area. <b><i>The proposed business meets goals, such as fostering small businesses, written in the Downtown Area Plan.</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. <b><i>The proposed request is consistent with the established use of a bar/entertainment business on the property</i></b>
		<u>X</u>	The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties. <b><i>No visual impacts are expected to cause adverse effects on adjacent properties.</i></b>
<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 5.1.5.5.

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