

# CUP-18-07

## Restricted Conditional Use Permit

### Crafthouse Urban Kitchen & Tap

### Amendment

### 242 North LBJ Drive



**Applicant Information:**

**Applicant:** Allen Shy

**Mailing Address:** 2686 Black Bear  
New Braunfels, TX 78132

**Property Owner:** Shy Penn, LTD  
2686 Black Bear  
New Braunfels, TX 78132

**Applicant Request:** Amendment to an existing Restricted Conditional Use Permit (CUP) to allow on-premise consumption of mixed beverages

**Public Hearing Notice:** Public hearing notification mailed on March 30, 2018

**Response:** None as of completion of packet.

**Subject Property:**

**Location:** 242 North LBJ Drive

**Legal Description:** Original Town of San Marcos, Block 7, Lot 5

**Frontage On:** North LBJ Drive & East Hutchison Street

**Neighborhood:** Downtown

**Existing Zoning:** SmartCode T5 – Urban Center

**Preferred Scenario Designation:** Downtown - High Intensity

**Utilities:** Adequate

**Existing Use of Property:** Restaurant

**Zoning and Land Use Pattern:**

	<b>Zoning</b>	<b>Existing Land Use</b>
<b>N of Property</b>	T5	Barefoot Outfitters / Showdown Saloon
<b>S of Property</b>	T5	Dahlia Woods Gallery
<b>E of Property</b>	T5	Vacant
<b>W of Property</b>	T5	Classic Tattoo Mobile Phone Geeks Sophia Hair Salon

## **Code Requirements:**

A Conditional Use Permit (CUP) allows the establishment of uses which may be suitable only in certain locations or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are generally compatible with permitted uses, but require individual review and imposition of conditions in order to ensure the appropriateness of the use at a particular location.

Under Section 4.3.4.2 of the LDC a business applying for on-premise consumption of alcohol must not be within 300 feet of a church, school, hospital, or a residence located within a zoning district that limits density to six units per acre or less. This location **does meet** the distance requirements.

CUPs issued for on-premise consumption of alcohol make the business subject to the code standards and the penalty point system for violations (Section 4.3.4.2).

The applicant has requested an amendment to a **Restricted (Restaurant) Conditional Use Permit** which requires that the business must comply with the following standards at all times. There is a limit of 25 Restricted CUPs in the Central Business Area at any time. (Section 4.3.4.2). There are 15 Restricted CUPs currently existing.

- a. 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.
- b. The business must apply for, obtain and maintain a food establishment permit in accordance with Chapter 18 of the City Code.
- c. 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.
- d. The business must be used, maintained, advertised and held out to the public as a place where meals are prepared and served.

The restaurant must be in operation for 6 months before a permit for beer and wine is issued, and 12 months before a permit for mixed beverages is issued without a previously approved Economic Development Waiver.

## **Case Summary**

The subject property is located at the corner of North LBJ Drive and Hutchison Street. Surrounding uses include an art gallery, bar, tattoo shop, and retail.

The current restaurant is approximately 8,000 square feet with 207 indoor seats and a sidewalk café along North LBJ Drive with 24 outdoor seats. There are 16 off-street parking spaces provided on the site. Because the property is within the Central Business Area, no off-street parking is required. Hours of operation are 11:00 am to 2:00 am. The restaurant provides a full menu and functions as a full-service restaurant.

The applicant is proposing to construct a new sidewalk café along the southernmost façade of LBJ similar in design to the existing approved sidewalk café. The expansion is a total of 176 square feet and would add approximately 16-20 additional outdoor seats. The sidewalk café will be constructed in accordance with the City's Streetscape Improvements Ordinance and Design Manual and will be required to provide fiscal surety for the improvements and obtain a license agreement. A depiction of the proposed sidewalk café is included in the packet.

A Conditional Use Permit for the business was first approved for the site in May 2015, which became effective after receiving their Certificate of Occupancy in April 2016. The business expanded in 2017 and amended their CUP. It was approved for 3 years with an expiration date of April 11, 2020.

**Comments from Other Departments:**

The Police Department has no issues with the proposed establishment and there have been no comments from other departments.

**Planning Department Analysis:**

Staff has reviewed the request for compliance with the Land Development Code and it appears that the request is consistent with the policies and the general intent of the zoning district and does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic.

Since opening, the business has functioned as a bona fide restaurant and has met all of the requirements for a Restricted Conditional Use Permit. To ensure that the business functions in this manner, staff added an additional condition in 2017 that food service be provided throughout the entire business. Staff recommends that this condition continue to remain as part of the Conditional Use Permit.

In order to monitor Restricted Conditional Use Permits for on-premise consumption of alcohol, the Planning Department's standard recommendation is as follows. The Land Development Code states that Restricted permits are valid for three years from date of issuance and cannot be valid for more than 3 years. Planning Commission has the discretion to add additional conditions.

- Initial approval for 1 year;
- Renewal for 3 years;

Staff recommends that this amended CUP also be valid for 3 years which would establish a new expiration date of **April 10, 2021**.

Staff provides this request to the Commission for your consideration and recommends **approval** of the Conditional Use Permit with the following conditions:

- 1. The permit shall be valid for three (3) years, provided standards are met, subject to the point system;**
- 2. The permit shall be posted in the same area and manner as the Certificate of Occupancy; and**
- 3. Food shall be available to patrons in all areas of the restaurant in a manner that meets the requirements of a Restricted Conditional Use Permit.**

Planning Department Recommendation:	
	Approve as submitted
<b>X</b>	Approve with conditions or revisions as noted
	Alternative
	Denial

**Commission's Responsibility:**

The Commission is required to hold a public hearing and receive comments regarding the proposed Conditional Use Permit. After considering public input, the Commission is charged with making a decision on the Permit. Commission approval is discretionary. The applicant, or any other aggrieved person, may submit a written appeal of the decision to the Planning Department within 10 working days of notification of the Commission's action, and the appeal shall be heard by the City Council.

The Commission's decision is discretionary. Provided the request meets the minimum requirements of section 4.3.4.2 of the LDC, the Commission shall also evaluate the impact of the proposed conditional use on surrounding properties under section 1.5.7.5 of the LDC, by considering the extent to which the use:

- is consistent with the policies of the Comprehensive Plan and the general intent of the zoning district;
- is compatible with the character and integrity of adjacent developments and neighborhoods;
- includes improvements to mitigate development-related adverse impacts; and
- does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic in the neighborhood.

Conditions may be attached to the CUP that the Commission deems necessary to mitigate adverse effects of the proposed use and to carry out the intent of the Code.

**Prepared by:**

Andrea Villalobos, CNU-A

Planner

April 15, 2018

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**Name**

**Title**

**Date**