

Conditional Use Permit	202 N LBJ Dr, STE A
CUP-24-69	Axis



Summary

Request:	Renewal of a Conditional Use Permit		
Applicant:	Henry Hogensen 202 N LBJ Dr, Ste A San Marcos, TX 78666	Property Owner:	Walker Molinare 2606 RR 620 North Austin, TX 78734
CUP Expiration:	9/13/2017	Type of CUP:	CBA Restaurant Mixed Beverage
Interior Floor Area:	+/- 3,300 sq ft	Outdoor Floor Area:	600 sq ft
Parking Required:	N/A	Parking Provided:	N/A
Days & Hours of Operation:	Monday-Sunday: 6pm – 2am		

Notification

Posted:	11/22/24	Personal:	11/22/24
Response:	None as of the date of this report		

Property Description

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

Surrounding Area

	Zoning	Existing Land Use	Preferred Scenario
North of Property:	Character District 5 Downtown (CD-5D)	Restaurant (Pho Tran 88)	Mixed Use Medium Intensity Zone
South of Property:	Character District 5 Downtown (CD-5D)	Restaurant (The Coffee Bar)	Mixed Use Medium Intensity Zone
East of Property:	Character District 5 Downtown (CD-5D)	Restaurant (Chimy's)	Mixed Use Medium Intensity Zone
West of Property:	Character District 5 Downtown (CD-5D)	Restaurant (The Root Cellar Café)	Mixed Use Medium Intensity Zone

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Staff Recommendation

Approval as Submitted	<input checked="" type="checkbox"/> Approval with Conditions	<input type="checkbox"/> Denial
<ol style="list-style-type: none"> The permit shall be valid for one (1) year, provided standards are met; and Food shall be available to patrons in all areas of the restaurant in a manner that meets the requirements of Section 5.1.5.5(4)(b), Eating Establishments – Downtown CBA Boundary; and The permit shall be posted in the same area and manner as the Certificate of Occupancy. 		
Staff: Kaitlyn Buck	Title: Planner	Date: 10/4/24

History

The subject business is located in the “walk out” basement of the building with a primary entrance that faces the parking lot adjacent to Hopkins Street. Previous businesses at this location include ‘Jay’s Bistro’, ‘Taxi’s’, and ‘Kiva’. In 2004, J’s Bistro received a Conditional Use Permit for the lifetime of the TABC license. In 2016 the business pursued an administrative name change to “Kiva” and maintained the CUP for the lifetime of the TABC license. In 2016 the business amended their CUP to include an outdoor patio and received approval of the CUP valid for one year. Kiva permanently closed in late 2019.

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 originally issued to Kiva would continue through the name change.

Throughout 2024, staff has gone through a deep dive into every CUP ever issued and began sending letters to businesses out of compliance. Through this process the owner of Axis was notified and immediately submitted an application.

Additional Analysis

See additional analysis below.

Comments from Other Departments

Police	See Attached Police Report
Fire	No Comment
Public Services	No Comment
Engineering	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>X</u>			The proposed use is consistent with any adopted neighborhood character study for the area. <i>The proposed business meets goals, such as fostering small businesses, written in the Downton Area Plan.</i>
<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. <i>The proposed use is compatible with and preserves the character and integrity of adjacent developments; no improvements are necessary at this time.</i>
<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. <i>No improvements are being proposed as the subject structure is an existing development.</i>
		<u>X</u>	The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties. <i>No visual impacts are expected to cause adverse effects on adjacent properties.</i>
<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.