

Conditional Use Permit	126 S Guadalupe Street
CUP-25-42	Rooftop on the Square



Summary

Request:	Renewal of a Conditional Use Permit		
Applicant:	Rob Espinosa 126 S. Guadalupe St. San Marcos, TX 78666	Property Owner:	San Marcos Assets LLC 126 S. Guadalupe St. San Marcos, TX 78666
CUP Expiration:	8/4/2025	Type of CUP:	CBA Restaurant Mixed Beverages
Interior Floor Area:	3,000 sf	Outdoor Floor Area:	2,500 sf
Parking Required:	N/A	Parking Provided:	Yes
Days & Hours of Operation:	Monday – Sunday: 12pm – 2am		

Notification

Posted:	8/8/2025	Personal:	8/8/2025
Response:	None as of the date of this report		

Property Description

Legal Description:	Original Town of San Marcos, Block 12, Lot 4A		
Location:	Approx. 150' south of the Guadalupe St & San Antonio St intersection		
Acreage:	0.166 acres	PDD/DA/Other:	N/A
Existing Zoning:	CD-5D	Proposed Zoning:	Same
Existing Use:	Bar	Proposed Use:	Bar & Restaurant
Preferred Scenario:	Mixed Use Medium	Proposed Designation:	Same
CONA Neighborhood:	Downtown	Sector:	8
Utility Capacity:	Adequate	Floodplain:	No
Historic Designation:	N/A	My Historic SMTX Resources Survey:	Low (not historic)

Surrounding Area

	Zoning	Existing Land Use	Preferred Scenario
North of Property:	Character District - 5 Downtown (CD-5D)	Loans & Auto Insurance	Mixed Use Medium
South of Property:	Character District - 5 Downtown (CD-5D)	Parking	Mixed Use Medium
East of Property:	Character District - 5 Downtown (CD-5D)	Law Office & Research Center	Mixed Use Medium
West of Property:	Character District - 5 Downtown (CD-5D)	Vacant Building & Parking	Mixed Use Medium

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 six (6) months, provided standards are met; 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; The permit shall be posted in the same area and manner as the Certificate of Occupancy; & No live music and no speakers are permitted in the outdoor patio areas. 		
Staff: Will Rugeley, AICP	Title: Planner	Date: 8/20/2025

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History

2012: The business received a Restaurant CUP which was approved for one year. During 2012, the business received enforcement/citation letters for violations regarding the restaurant requirements associated with the CUP and Certificate of Occupancy requirements. These violations were subsequently resolved by the business.

2013: The business received two violations for serving alcoholic beverages to intoxicated customers. As a result, renewal of the Restaurant CUP was approved for two periods of three months, with conditions to monitor the business followed by an approval of six months, with conditions.

2014: The renewal Restaurant CUP was approved by the Planning and Zoning Commission for six months, with conditions followed by an approval with conditions later that year for one year.

2015: The renewal Restaurant CUP was approved for three years with conditions.

2018: The renewal Restaurant CUP was approved for three years with conditions.

2021: The renewal Restaurant CUP was approved for three years with conditions.

The first floor of the building previously included a dining area for Brooklyn Pie Co. However, the applicant advised staff that this space will now be occupied by Bagel Bros.

Additional Analysis

Staff's recommendation finds its basis in the following: the business' most recently approved CUP having already expired, the business letting their food permit expire but having received a new food permit on 8/4/2025, and the violations documented by the City's Neighborhood Enhancement Department, staff recommends CUP approval for 6 months. This will allow the establishment to demonstrate continued conformance with all City codes and ordinances, including the continued operation of an associated restaurant.

Comments from Other Departments

Police	See attached memorandum titled "Police Calls"
Fire	No Comment
Public Services	No Comment
Engineering	No Comment
Health/Code Compliance	See attached memorandum titled "Code Compliance Docs"

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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 attracting people with a diversity of restaurants, written in the Downtown 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.
<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 5.1.5.5.