

**CUP-16-39
 Conditional Use Permit
 Kobe Steakhouse
 210 Springtown Way**



Applicant Information:

Applicant: Andrew Chen, on behalf of Kobe Steakhouse
 210 Springtown Way
 San Marcos, TX 78666

Property Owner: Joe Bendetti
 11701 Bee Caves Road Suite 216
 Austin, TX 78738

Applicant Request: Approval of a new Conditional Use Permit (CUP) to allow on-premise consumption of mixed beverages.

Notification Public hearing notification mailed on February 17, 2017

Response: None as of report date.

Subject Property:

Location: 210 Springtown Way

Legal Description: Springtown V, Lot 2

Frontage On: Springtown Way

Neighborhood: Millview West

Existing Zoning: General Commercial (GC)

Preferred Scenario Designation: Midtown, High Intensity

Utilities: Adequate

Existing Use of Property: Vacant Restaurant (previously Applebee's)

Proposed Use of Property: Restaurant

Zoning and Land Use:

	Current Zoning	Existing Land Use
N of Property	GC	Retail (Office Depot)
S of Property	GC	Springtown Shopping Center
E of Property	GC	Springtown Shopping Center
W of Property	GC	Springtown Shopping Center

Code Requirements:

Conditional use permits (CUPs) for the sale of alcohol for on-premises consumption are subject to the criteria for review under both Section 4.3.4.2 of the Land Development Code (LDC), pertaining specifically to alcohol sales, and Section 1.5.7.5 of the LDC, which is applicable to all conditional uses. A 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.

As a threshold requirement under Section 4.3.4.2, a business applying for a CUP 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 distance is measured along the property lines of street fronts and from front door to front door, and in a direct line across street intersections. 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). This location is outside the Central Business Area (CBA) and is not subject to the additional restrictions within the CBA.

Case Summary

Kobe Steakhouse is an existing restaurant located at the corner of Springtown Way and IH-35. The restaurant is relocating to an existing building at 210 Springtown Way adjacent to the Springtown Shopping Center. The existing building was previously occupied by Applebee's Neighborhood Grill and Bar, which previously held a valid Specific Use Permit (SUP) for the sale of mixed beverages on the property. A SUP was the previous term for a CUP prior to the code rewrite of 2004. Applebee's has since closed and the building has remained vacant.

Proposed improvements to the property include bringing the site into conformance with landscaping, photometric, screening, and other site-related standards due to the "abandoned" nature of the property. Per the Land Development Code, a property deemed "abandoned" must come into compliance with current applicable codes and ordinances. The applicant will also be remodeling the interior of the structure, adding approximately 500 square feet to the building, and will also enclose the existing outdoor patio to accommodate hibachi grills.

According to the application, the gross floor area of the building is approximately 5,862 square feet and will have approximately 173 indoor fixed seats. Hours of operation are from 11:00 a.m. to 2:00 a.m. Monday – Sunday. The applicant is providing 53 parking spaces on the site which exceeds the minimum parking requirement of 44 spaces (1 space for every four seats or one space for every 100 square feet of gross floor area, whichever is less). The applicant is not proposing any entertainment facilities on the site.

Comments from Other Departments:

The City's Police Department did not have any concerns with the request. There were no other concerns from other City Departments.

Planning Department Analysis:

Section 4.3.4.2 of the LDC outlines the following criteria for approval. A summary of these items is listed below:

- a. Kobe Steakhouse meets the location and distance requirements to a school, church or single-family residence;

- b. The property will be required to meet all noise ordinance requirements. The applicant is not proposing entertainment facilities such as outdoor live music;
- c. The business is not located adjacent to any residential properties;
- d. The business is required to meet all building code requirements;
- e. The applicant is providing 53 parking spaces on the site which exceeds the minimum parking requirement of 44 spaces;
- f. The applicant is bringing the lighting on the property into conformance with current photometric standards; and
- g. All additional code requirements of section 4.3.4.2 shall be met.

Furthermore, Section 1.5.7.5 of the LDC outlines the following criteria for approval. A summary of these items is listed below:

- a. The property is currently zoned General Commercial which allows a restaurant use and requires a CUP for on-premise consumption of alcohol;
- b. The Code discusses compliance with the existing Character Study for the area, however, this area is located in Midtown, and a description of Midtown is provided in the Comprehensive Plan;
- c. The proposed use is consistent with the general intent of the zoning district. General Commercial zoning allows a restaurant use by right. The property previously operated as a restaurant;
- d. Improvements have been added to the site to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods. Improvements include bringing the site into conformance with applicable codes and ordinances such as landscaping, lighting, and parking, trash/recycling, and utility screening;
- e. The business is located on Springtown Way, which is a Commercial Collector road, and is designed to carry vehicular, bike, and pedestrian traffic;
- f. The use incorporates features such as landscape screening and parking lot landscaping to minimize adverse effects on adjacent properties; and
- g. The proposed use meets the standards of the General Commercial zoning district.

Staff has reviewed the request for compliance with the Land Development Code and found 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.

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department's recommendation is that they be approved initially for a limited time period. Other new conditional use permits have been approved as follows:

- Initial approval for 1 year;
- Renewal for 3 years
- Final approval for the life of the State TABC license, provided standards are met.

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 one (1) year, provided standards are met, subject to the point system;**
- 2. The permit shall be effective upon issuance of the Certificate of Occupancy; and**
- 3. The permit shall be posted in the same area and manner as the Certificate of Occupancy.**

Planning Department Recommendation:	
	Approve as submitted
X	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. Upon a determination that the proposed use meets the threshold requirements under Section 4.3.4.2 of the LDC, the Commission shall 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

February 14, 2017

Name

Title

Date