

# CUP-17-23

## Conditional Use Permit

### Chuy's

### 1121 North IH-35

**Applicant Information:**

**Applicant:** Kyle V. Hill on behalf of Chuy's

**Mailing Address:** Chuy's Opco, Inc.  
3345 Bee Cave Road, Ste 105  
Austin, TX 78746

**Property Owner:** Humpty Dumpty SSM, Ltd.  
c/o Endeavor Real Estate Group  
500 West 5<sup>th</sup> Street, Ste 700  
Austin, TX 78701

**Applicant Request:** Approval of a renewal for a Conditional Use Permit (CUP) to allow on-premise consumption of mixed beverages at a restaurant establishment.

**Public Hearing Notice:** Public hearing notification mailed on September 1, 2017

**Response:** None as of Staff Report date.

**Subject Property:**

**Expiration Date:** September 23, 2017

**Location:** 1121 North IH-35

**Legal Description:** Lot 1, Chuy's Addition

**Frontage On:** North IH-35 Frontage Road

**Neighborhood:** Millview West

**Existing Zoning:** GC, General Commercial

**Preferred Scenario Designation:** High Intensity

**Utilities:** Adequate

**Existing Use of Property:** Restaurant

**Zoning and Land Use Pattern:**

	Current Zoning	Existing Land Use
<b>N of property</b>	GC	Vacant (previously Logan's)
<b>S of property</b>	GC	IHOP (restaurant)
<b>E of property</b>	GC	IH-35 Frontage/Highway
<b>W of property</b>	GC	Vacant (Springtown Mall)

### **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).

### **Case Summary**

The subject property is located within the Springtown Shopping Center between IH-35, Springtown Way, and Thorpe Lane. The subject property is one of several land parcels within this Shopping Center development. Previously, a Furr's restaurant was located on the subject property. It has since been demolished and Chuy's restaurant was constructed in 2016.

The total gross floor area of the space is approximately 8,500 square feet with 233 indoor fixed seats and approximately 80 outdoor seats. No entertainment facilities are proposed at this time. The application indicates hours of operation from 11 a.m. to 10 p.m. Sunday – Thursday and 11 a.m. to 11 p.m. Friday - Saturday. Based upon the Land Development Code Parking requirements, Chuy's is required to have 79 parking spaces (1 space for every 4 seats). Chuy's currently has 57 parking spaces within the subject property boundaries as well as a shared-parking agreement with the owners of the Springtown Development, Humpty Dumpty SSM, for the additional required spaces.

### **Comments from Other Departments:**

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

### **Planning Department Analysis:**

Chuy's received a Conditional Use Permit from the Commission in 2016 for (1) one year. The business has subsequently submitted an application for renewal of the CUP. 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.

Staff finds the use is consistent with the General Commercial Zoning District and is compatible with adjacent zoning districts as well as other businesses within the commercial shopping center.

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 conditional use permits have been approved as follows:

- Initial approval for 1 year;
- Renewal for 3 years
- Life of the TABC Permit

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; and**
2. **The permit shall be posted in the same area and manner as the Certificate of Occupancy.**

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	September 7, 2017
<b>Name</b>	<b>Title</b>	<b>Date</b>