

CUP-17-06
Conditional Use Permit
Rumors Bar
1617 Aquarena Springs Drive



Applicant Information:

Applicant: Rumors Bar San Marcos, LLC
 1617 Aquarena Springs Drive
 San Marcos, TX 78666

Property Owner: G&S Development LLC
 6621 Olympia Drive
 Pasadena, TX 77505

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 11, 2016

Response: None as of Staff Report Date

Subject Property:

Location: 1617 Aquarena Springs Drive

Legal Description: Lot 5A, Block B of the Westfield Addition

Frontage On: Aquarena Springs Drive and West Avenue

Neighborhood: Millview East

Existing Zoning: General Commercial

Preferred Scenario Designation: Area of Stability

Utilities: Adequate

Existing Use of Property: Hookah Lounge

Proposed Use of Property: Bar

Zoning and Land Use:

	Current Zoning	Existing Land Use
N of Property	MF-24	Multifamily
S of Property	OP, MF-18	Offices, Multifamily
E of Property	MF-18	Multifamily
W of Property	MF-24	Multifamily

Code Requirements:

Conditional use permits (CUP's) 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 with the CBA.

Case Summary

The subject property is located at the northeast corner of Aquarena Springs Drive and West Avenue. Currently, Bad Habits Hookah Lounge is located in the building. However, the applicant who is the owner of Bad Habits, has recently decided to change the business plan along with the name of the business. Rather than running the business as a hookah lounge, the applicant has decided to run it as a bar.

The application states that the gross floor area of the building is approximately 5,268 square feet with approximately 220 indoor and 76 outdoor fixed seats. Hours of operation are from noon to 2:00 a.m., seven days a week. The applicant is providing 76 parking spaces on the site which exceeds the minimum parking requirement of 53 spaces (1 space for every four seats or one space for every 100 square feet of gross floor area, whichever is less). While the application states that there will be no entertainment facilities, the applicant has stated that they do have live music but all live music is contained inside the building.

Comments from Other Departments:

The City's Police Department expressed a concern with pedestrians in the area stating that Aquarena Springs Drive is not pedestrian-friendly in this area and that intoxicated persons leaving the bar could pose a safety concern in this area. 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. Rumors Bar 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 states that they do offer live music which is contained to the inside of the building. No additional entertainment facilities such as outdoor live music are being proposed at this time;
- c. The business is located adjacent to a couple of multifamily residential properties but an existing wood privacy fence is located between the properties;
- d. The business is required to meet all building code requirements;
- e. The applicant is providing 76 parking spaces on the site which exceeds the minimum parking requirement of 53 spaces; and
- f. 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 businesses that sell alcohol for on-premise consumption through the Conditional Use Permit process;
- b. The Code discusses compliance with the existing Character Study for the area, however, there is currently no character study to review for this area;
- c. The proposed use is consistent with the general intent of the zoning district. General Commercial zoning allows a retail use by right. The property has previously operated as a restaurant with the sale of alcohol (Los Cucos) and more recently as a hookah lounge;

- d. Improvements, such as privacy fencing and landscaping, exist on 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. The applicant is not proposing any new additional improvements to the site. Staff is recommending that live music (acoustic or amplified) be prohibited out on the patio to help mitigate any impact to the multifamily residential properties. Keeping the doors closed to the outdoor patio would help to reduced noise heard outside;
- e. The business is located on Aquarena Springs Drive, which is a Major Arterial road, and is designed to carry heavy vehicular traffic. Sidewalks are located on West Avenue as well as in front of the subject property along Aquarena Springs Drive. Crosswalks in the immediate vicinity are located at the intersection with Thorpe Lane, approximately 360 feet from the property. Staff requested accident information from the Police Department for the past year. Fifty accidents were reported on Aquarena Springs Drive; none involved pedestrians;
- f. Existing features such as parking lot landscaping and screening help 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. No live music (acoustic or amplified) shall be heard or allowed on the patio;**
- 3. The permit shall be effective upon issuance of the Certificate of Occupancy; and**
- 4. 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. 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:

Alison Brake, CNU-A

Planner

March 1, 2017

Name

Title

Date