

CUP-17-24

Unrestricted Conditional Use Permit

Pinky's Wine Bar

232 North LBJ Drive, Ste 101

Applicant Information:

Applicant: Dahlia Woods Gallery, LLC

Mailing Address: Dahlia Woods
232 North LBJ Drive, Ste 101
San Marcos, TX 78666

Property Owner: Dahlia Woods
714 Burleson Street
San Marcos, TX 78666

Applicant Request: Approval of a renewal to an Unrestricted Conditional Use Permit (CUP) to allow on-premise consumption of beer and wine at an art gallery.

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

Response: None as of Staff Report date.

Subject Property:

Expiration Date: September 13, 2017

Location: 232 North LBJ Drive, Ste 101

Legal Description: Original Town of San Marcos, Block 7, Part of Lot 6

Frontage On: North LBJ Drive

Neighborhood: Downtown

Existing Zoning: SmartCode T5 – Urban Center

Preferred Scenario Designation: High Intensity

Utilities: Adequate

Existing Use of Property: Art Gallery

**Zoning and
Land Use Pattern:**

	Current Zoning	Existing Land Use
N of property	T5	Restaurant (Crafthouse)
S of property	T5	Vacant (proposed retail)
E of property	T5	Alley / Retail (Textbook Solutions)
W of property	T5	Coffee Shop (Stellar Café)

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).

The applicant is requesting a renewal to an **Unrestricted Conditional Use Permit**. An Unrestricted CUP does not require food sales as a condition (if a CUP is Restricted, the business must comply at all times with the standards for “bona fide restaurants.”) There is a limit of 14 Unrestricted CUPs in the Central Business Area (CBA) at any time and the CBA is currently capped at 14 Unrestricted CUPs.

Case Summary

Dahlia Woods Gallery is an art gallery and book store located at 232 North LBJ Drive within the Central Business Area (CBA). Dahlia Woods Gallery opened in March of 2016. The gallery received an Unrestricted CUP in September 2016 to allow on-premise consumption of beer and wine for an establishment known as “Pinky’s Wine Bar” (located within the gallery). The building also includes 3 residential apartments on the second floor.

The total gross floor area of the space is 2,000 square feet with 30 indoor fixed seats and no outdoor seating. The gallery hosts occasional live music during gallery events. The application indicates hours of operation from 12 p.m. to 12 a.m. Wednesday – Saturday. Per the SmartCode, retail businesses located within the Central Business Area (CBA) are not required to provide off-street parking. However, parking spaces are required for the residential units above the gallery, and it has been confirmed that adequate parking is available for those units (3 required spaces, 4 spaces provided).

Comments from Other Departments:

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

Planning Department Analysis:

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. The request for the renewal of the CUP will allow for beer and wine to be served and sold to accompany the art gallery and exhibition events.

Per the Land Development Code, any future substantial operational change in the business, such as a change to a restaurant, or a bar, will require the review of a new Conditional Use Permit at the Planning and Zoning Commission (Section 4.3.4.2.a.3). The Commission also placed a condition on the initial CUP that the permit shall be limited to apply only to the first floor of the building.

In order to monitor Unrestricted permits for on-premise consumption of alcohol, the Planning Department’s recommendation is that they be approved initially for a limited time period. Other Unrestricted 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 three (3) years, provided standards are met, subject to the point system;**
2. **The permit shall be limited to apply only to the first floor of the building; 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. 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

Name

Title

Date