

CUP-17-21

Conditional Use Permit

Wonder World Park

1001 Prospect Street



Applicant Information:

Applicant: Grover Buddy Mostyn

Mailing Address: PO Box 1369
San Marcos, TX 78667

Property Owner: Grover Buddy Mostyn
Po Box 1369
San Marcos, TX 78667

Applicant Request: Request for a new Conditional Use Permit to allow the sale of beer and wine for on-premise consumption at Wonder World Park, located at 1001 Prospect Street.

Public Hearing Notice: Public hearing notification was mailed on September 29, 2017.

Response: As of the completion of this packet, Staff has received one email against this request. This email is included in the packet.

Subject Property:

Expiration Date: NA

Location: 1001 Prospect Street

Legal Description: H E Barber Lots PT 15-16 & Cedar Plateau, Block 1 Lots 3-4.

Frontage On: Prospect Street

Existing Zoning: General Commercial (GC)

Preferred Scenario Designation: Area of Stability

Utilities: Adequate

Existing Use of Property: Theme Park

**Zoning and
Land Use Pattern:**

| | Current Zoning | Existing Land Use |
|----------------------|----------------|---------------------|
| N of property | CC / GC | Zoo - Office |
| S of property | SF-6 | Single Family Homes |
| E of property | SF-6 / P | Single Family Homes |
| W of property | SF-6 | Single Family Homes |

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.

A business applying for on-premise consumption of alcohol must not be within 300 feet of a church, school, hospital, or a residence located in a low density residential zoning district. Section 4.3.2(b)(3) states the following:

“The measurement of the distances regulated in this Section 4.3.4.2 shall be as follows:

- (a) Between a place of business where alcoholic beverages are sold and the church, public hospital, or residence shall be 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).

Case Summary

Wonder World Park is an existing theme park located at 1001 Prospect Street. Existing entertainment facilities at Wonder World Park include a cave, observation tower, wildlife park, and Anti-Gravity House. In addition, Wonder World Park also has an indoor/outdoor café which serves food and non-alcoholic beverages. Wonder World Park consists of property on both sides of Prospect Street, however the applicant is proposing to limit alcohol sales to the south side of Prospect Street. The applicant has stated that the proposed alcohol sales will be an additional amenity to the services already provided, and that they do not intend to operate the property as a standalone bar.

The property, which the applicant is requesting a Conditional Use Permit for is zoned General Commercial (GC), however much of the surrounding property is zoned Single Family 6 (SF-6) including a portion of the Wonder World Park property upon which a portion of the parking lot is located. There is a neighboring property that is zoned GC upon which an office is located. Wonder World Park owns a parking lot and wildlife park on the north side of the Prospect Street which is zoned Community Commercial (CC).

The applicant is proposing to allow patrons to consume alcohol within the majority of the property located on the south side of Prospect Street. However, alcohol will be prohibited within the Anti-Gravity House, Wonder World Cave, and the uppermost viewing deck of the observation tower. Additionally, the applicant would like to have the ability to have special events in which a temporary bar is set up in Courtyard II or in the viewing room within the tower.

The applicant is proposing to sell alcohol out of an approximately 960 square foot building (identified as Building II on the site plan) located between the main building and the Anti-Gravity House. Currently this building is primarily used as a party room and has existing bathrooms. Alcohol will primarily be consumed in courtyard I directly adjacent to Building II. Courtyard I is approximately 6,000 square feet, and the applicants would like to include televisions and additional speakers within Courtyard I for entertainment. The applicant would also like the ability to provide non-amplified live music within Courtyard I.

Courtyard II is approximately 18,000 square feet and is located at the rear of the property, where picnic tables are set up for people who wish to eat outside. As currently envisioned by the applicant, customers would be able to eat or drink on picnic tables within Courtyard II, but there would be no additional televisions

in this area. During special events, the applicant would like to have the ability to provide a temporary bar within Courtyard II to serve patrons, but this bar would not operate on a daily basis.

Both Courtyard I and Courtyard II are located adjacent to SF-6 property (Please see attached zoning map). Courtyard I is located approximately 260 feet as the crow flies from the nearest single family home on the adjacent property. The closest single family home to Courtyard II is approximately 150 feet away when measured in a straight line as the crow flies. However, no single family home is within 300 feet when measured under the “door to door” standard as prescribed by the code. The front of the Courtyard II is separated from the parking lot by a covered walkway that includes a low stone wall which is topped by vegetation.

The applicant would also like to hold special events with a temporary bar in the tower’s 600 square foot indoor viewing room which is located approximately three quarters of the way up the tower, but does not intend to allow alcohol on the upper most deck, which is exposed to the elements. The applicant intends to rent the viewing room out for private events, such as fundraisers and private parties.

The applicant would like to have the ability to provide unamplified live music, and does plan to play music over a speaker system. Wonder World Park currently plays music over a speaker system during the current hours of operation, which are 9 a.m. to 8 p.m. The applicant has stated that any new speakers added to the courtyard will face away from the SF-6 homes located adjacent to Courtyard I.

The applicant is proposing to build a six (6) foot tall fence to separate all areas in which alcohol can be consumed from neighboring single-family property. The applicant is proposing to build a fence with overlapping boards (please see fence exhibit) so that there are no gaps. Additionally, the applicant is proposing to build the fence out of 5/8 inch thick boards with pressure treated timbers on the ground, running against the fence. Filling the gaps between the wooden planks and the ground will help reduce the amount of noise leaving the property. The applicant estimates that the new fence will reduce noise by a minimum of 15-30 decibels. Additionally, the applicant is subject to the Land Development Code, section 6.4.2.1 restrictions on noise, which prohibit sound in excess of 85 decibels beyond the property line between 11 a.m. and 10 p.m.

The applicant is proposing to provide 90 fixed outdoor seats. There are 20 fixed seats in the concessions section of the tourism building and the applicant is proposing up to 20 fixed seats in building II, where alcohol is proposed to be sold. There are 104 parking spaces provided on site, which exceeds the minimum requirements established in the Land Development Code.

The applicant is proposing to extend the current hours of operation to be open from 9 a.m. to 10 p.m. Monday – Friday, 9 a.m. to 10 p.m. on Saturdays, and 12 p.m. to 10 p.m. on Sundays.

Comments from Other Departments:

There have been no comments from other departments.

Planning Department Analysis:

Staff has reviewed the request for compliance with the Land Development Code and has 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 standard recommendation is initial approval of the permit 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 CUP shall be valid for one (1) year, provided standards are met, subject to the point system;**
2. **The permit shall be effective upon the issuance of the Certificate of Occupancy for the proposed Building II bar and the acceptance of any required improvements included within the conditions herein;**
3. **The applicant must construct a curb or barrier approved by the Department of Engineering at the end of each row of parking along Prospect Street in order to contain vehicles within the parking lot and prevent vehicles from blocking the street.**
4. **The applicant constructs an overlapping board fence as described in the Staff Report;**
5. **No amplified outdoor live music is permitted;**
6. **Non-amplified live music is prohibited after 9:30 p.m.;**
7. **Amplified music is prohibited indoors after 9:30 p.m.;**
8. **Outdoor Televisions are only permitted within Courtyard I;**
9. **Any new outdoor speakers shall be limited to Courtyard I and shall be located in a manner which directs sound away from single family residences;**
10. **Alcohol sales are limited to no later than 10 p.m. Monday - Sunday.**
11. **Consumption of alcohol is prohibited in any portion of the parking lot.**
12. **The CUP shall be posted in the same area and manner as the Certificate of Occupancy.**

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|-------------------------------------|---|
| 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. In evaluating the impact of the proposed conditional use on surrounding properties, the Commission should consider the extent to which the use:

- The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;
- The proposed use is consistent with any adopted Neighborhood Character Study that has been completed for the area;
- The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
- 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
- The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;
- 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;
- The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties;
- The proposed use meets the standards for the zoning 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;

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.

Attachments:

- Site Plan
- Zoning Map
- Site Pictures

Prepared by:

Will Parrish, CNU-A

Planner

09/04/2017

Name**Title****Date**