

CUP-18-05

Conditional Use Permit Renewal

Aquabrew

150 South LBJ Drive



Applicant Information:

Applicant: Carlos Russo
Austin Street Tavern, LLC
PMB #222, 102 Wonder World Dr. #304
San Marcos, TX 78666

Property Owner: Carlos Russo
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PMB #222, 102 Wonder World Dr. #304
San Marcos, TX 78666

Applicant Request: Restricted (Restaurant) Conditional Use Permit (CUP) Renewal to allow the sale and on-premise consumption of mixed beverages in a T-5 Urban Center zoning district.

Public Hearing Notice: Public hearing notification was mailed on February 16, 2018.

Response: None.

Subject Property:

Location: 150 South LBJ Drive

Legal Description: Original Town of San Marcos, Block 13, Lot N Pt of 1 and S Pt of 2

Frontage On: South LBJ Drive

Neighborhood: Downtown

Existing Zoning: SmartCode T5 – Urban Center

Utilities: Sufficient

Existing Use of Property: Vacant (Previously Costumed Occasions)

Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of property	T5 – Urban Center	Bar
S of property	T5 – Urban Center	Vacant
E of property	T5- Urban Center	Commercial
W of property	T5 – Urban Center	Commercial

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). This location is located within the Central Business Area and is subject to the additional restrictions with the CBA.

Case Summary:

Aquabrew is a restaurant/brewpub with a Mixed Beverage Permit. The building is approximately 5,200 square feet, with a roof top deck. In addition to the structure and deck, there is an open air courtyard. Parking is not required to be provided for properties located in the CBA. However, the owner has secured a parking lot near the rear of the property on the other side of the alley for the use of this business. Currently this parking lot has approximately 30 spaces available for the use of this business.

Currently the restaurant is generally operated between the hours of 11 a.m. and 12 a.m., however their previous CUP was approved until 2 a.m. The applicant would like to retain the ability to stay open to 2 a.m. Current entertainment facilities include the bar and live music stage in the courtyard. Currently live music is limited to between the hours of 11 a.m. and 12 a.m.

Comments from Other Departments:

We have received no comments from other departments regarding this request.

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 general intent of the T5-Urban Center zoning district and with the policies described in Section 4.3.4.2 - *Conditional Use Permits for On-Site Alcoholic Beverage Consumption*.

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department's standard 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.

This project has previously been awarded several 1 year approvals, as the applicant opened the restaurant in phases. Staff has not received any notice of violation or concerns from any departments regarding the 1 year approvals.

Staff recommends **approval** with the following conditions:

1. **The permit shall be valid for one (3) year, provided standards are met, subject to the point system.**
2. **The permit shall be posted in the same area and manner as the Certificate of Occupancy.**
3. **Outdoor live music shall be limited to the hours between 11 a.m. and 12 a.m.**

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.

Prepared by:

Will Parrish

Planner

February 22, 2018

Name

Title

Date