

CUP-18-08

Conditional Use Permit

Japan Latino Renewal

1328 N IH 35



Applicant Information:

Applicant: Wade Lin

Mailing Address: 1328 N IH 35
San Marcos, TX 78666

Property Owner: Mark Van Kleef
1334 North IH 35
San Marcos, TX 78666

Applicant Request: Request for a renewal of an existing Conditional Use Permit to allow the sale of beer and wine for on-premise consumption.

Public Hearing Notice: Public hearing notification was mailed on March 30, 2018.

Response: None as of completion of packet.

Subject Property:

Expiration Date: April 14, 2018

Location: 1328 North IH 35

Legal Description: Luis Gil Addition, Lot 2

Frontage On: IH-35

Existing Zoning: General Commercial (GC)

Preferred Scenario Designation: Midtown - High Intensity

Utilities: Adequate

Existing Use of Property: Restaurant

**Zoning and
Land Use Pattern:**

	Current Zoning	Existing Land Use
N of property	General Commercial	Commercial
S of property	General Commercial	Vacant
E of property	General Commercial	RV Park
W of property	General Commercial	IH-35

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

This request is for a renewal of a Conditional Use Permit (CUP) for Japan Latino Restaurant. The Planning and Zoning Commission granted a three (3) year CUP renewal for the sale of beer and wine on April 14, 2015. The CUP will expire on April 14, 2018, and therefore, the owner has submitted an application for renewal.

The restaurant has 75 indoor seats and 30 off-street parking spaces. The hours of operation are from 11:30am – 10pm, Monday – Sunday. No live music or entertainment is provided. The applicant has indicated that there are no other proposed changes to the business or site.

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 the life of the TABC license, provided standards are met, subject to the point system; and**
2. **The CUP 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. 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:

Andrea Villalobos, CNU-A

Planner

April 5, 2018

Name

Title

Date