

CUP-18-12

Conditional Use Permit Renewal

Hilton Garden Inn

2131 North IH 35



Applicant Information:

Applicant: Richard Weik
PO Box 1064
San Marcos, TX 78666

Property Owner: Action Hotel Group
PO Box 1064
San Marcos, TX 78666

Applicant Request: Conditional Use Permit (CUP) Renewal to allow the sale and on-premise consumption of mixed beverages at 2131 North IH 35.

Public Hearing Notice: Public hearing notification was mailed on April 13, 2018.

Response: None as of the date of this Staff Report.

Subject Property:

Location: 2131 North IH 35

Legal Description: San Marcos North Business Park, Lot 1.

Frontage On: IH 35

Neighborhood: NA

Existing Zoning: General Commercial (GC)

Utilities: Sufficient

Existing Use of Property: Hotel

Zoning and Land Use Pattern:

| | Current Zoning | Existing Land Use |
|----------------------|----------------|-------------------|
| N of property | GC | Vacant |
| S of property | GC | Vacant |
| E of property | GC | IH 35 |
| W of property | LI/CC | Grifols Biomat |

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:

The subject property is located near the intersection of River Ridge and North IH-35. The Hilton Garden Inn has a restaurant and bar area of approximately 1,500 square feet, however patrons will be able to consume alcohol purchased at the hotel throughout the building, which has a gross floor area of 28,696 square feet. The applicant is proposing to serve mixed beverages, and will have an indoor seating capacity of 55, as well as an outdoor seating capacity of 35. The hotel has 124 parking spaces to serve the property.

The proposed hours of operation for the hotel bar are 5 p.m. to 12 a.m. Monday – Sunday. According to the application, the applicant has no plans for additional entertainment facilities directly associated with the restaurant and bar, but staff does note that there is a swimming pool on the property.

The owner did submit a letter with the application requesting that the Planning and Zoning Commission grant a lifetime CUP, the letter is attached.

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 General Commercial 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 a 1 year approval which expires on April 28, 2018. Staff has not received any notice of violation or concerns from any departments regarding a renewal of the requested CUP.

Staff recommends **approval** 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 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:

Will Parrish

Planner

April 18, 2018

Name

Title

Date