

CUP-18-09
Conditional Use Permit Renewal
Pie Society
700 N LBJ Drive, Suite 107



Applicant Information:

Applicant: Pie Society
San Marcos, TX 78666
700 N LBJ Drive, Suite 107
San Marcos, TX 78666

Property Owner: Hjorting Family Trust
926 San Rogue Road
Santa Barbara, CA 93105

Applicant Request: Conditional Use Permit (CUP) Renewal to allow the sale and on-premise consumption of mixed beverages at 700 N LBJ Drive, Suite 107.

Public Hearing Notice: Public hearing notification was mailed on April 26, 2018.

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

Subject Property:

Location: 700 N LBJ Drive, Suite 107

Legal Description: The Centre at San Marcos, Lot 1

Frontage On: Sessom Drive

Neighborhood: NA

Existing Zoning: Community Commercial (CC)

Utilities: Sufficient

Existing Use of Property: Restaurant

Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of property	MF-18	Multi-family Residential
S of property	P	University
E of property	P	Multi-family Residential
W of property	GC	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).

Case Summary:

This request is for the renewal of an existing Conditional Use Permit for Pie Society, located within a space leased in a commercial strip center at 700 N LBJ Drive. The Commission first approved a CUP for alcohol sales in 2013 for one year which became effective after the business opened in 2014. The Commission renewed the applicant's request to service alcohol in 2015 for three years.

The hours of operation are Monday – Wednesday 11 a.m. to 11 p.m. Sunday thru Saturday. The total indoor seating capacity is 87 and there are 8 outdoor seats. Parking for the entire commercial center is calculated at the time of development of the center, not the individual lease spaces. Based on the occupancy, 22 off-street parking spaces are required (one space per four seats). The requirement has been satisfied. No other improvements are being proposed at this time.

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.

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

1. **The permit shall be valid for the lifetime of the TABC license, 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:

Tory Carpenter, CNU-A

Planner

May 3, 2018

Name

Title

Date