

Conditional Use Permit	1504 Aquarena Springs Drive Ste. 110
CUP-18-29(A)	Eskimo Hut



Summary

Request:	A Conditional Use Permit for the sale of beer and wine.		
Applicant:	Aquarena Plaza LLC 1801 Chalk Rock CV Austin, TX 78735	Property Owner:	Aquarena Plaza LLC 1801 Chalk Rock CV Austin, TX 78735
CUP Expiration:	N/A	Type of CUP:	Beer and Wine
Interior Floor Area:	2600 square feet	Outdoor Floor Area:	NA
Parking Required:	1	Parking Provided:	Yes
Days & Hours of Operation:	Monday - Saturday: 12 p.m. to 12 a.m. Sunday 12 p.m. to 10 p.m.		

Notification

Application:	N/A	Neighborhood Meeting:	N/A
Published:	N/A	# of Participants:	N/A
Posted:	October 26, 2018 December 14, 2018	Personal:	October 26, 2018 December 14, 2018
Response:	At the November 13, 2018 Planning and Zoning Commission meeting, three people spoke in favor of the application, one person spoke against.		

Property Description

Legal Description:	Aquarena Plaza, Lot 1		
Location:	Intersection of Aquarena Springs Drive and Zunker Street		
Acreage:	1.925	Central Business Area:	No
Existing Zoning:	Community Commercial	Preferred Scenario:	High Intensity
Existing Use:	Retail/Vacant	Proposed Use:	To-Go alcohol sales
CONA Neighborhood:	Millview West	Sector:	5
Utility Capacity:	Adequate	Floodplain:	No
Historic District	N/A		

Surrounding Area

	Zoning	Existing Land Use	Preferred Scenario
North of Property:	CC/MU	Retail	High Intensity
South of Property:	SF-6	Residential	High Intensity
East of Property:	CC	Retail	High Intensity
West of Property:	CC/MU	Office/Restaurant	High Intensity

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History

The appellant is the property owner of the proposed Eskimo Hut Location which was denied by the Planning and Zoning Commission on November 13, 2018.

The original applicant was requesting a CUP to sell alcohol to go, to walk up and drive thru customers. They proposed to sell the beverages in sealed plastic bags, a method that has been approved by the Texas Alcoholic Beverage Commission (TABC).

Eskimo Hut is a franchise chain located primarily in Texas. A franchise was previously located in San Marcos, however this applicant is a separate franchise, and not the same owner as previous San Marcos Eskimo Huts. This applicant does operate Eskimo Huts in San Antonio.

Additional Analysis

This property meets the 300 foot door to door requirement from Single Family zoned property, however, the drive-thru exits in very close proximity to two single family homes. The drive-thru exits onto Zunker Street in a manner that may cause the headlights of exiting vehicles to sweep the front façade of the closest home. The applicant is proposing business hours that last until midnight throughout the week, which could be a nuisance to the residences of the single family home.

Eskimo Hut has traditionally served their drinks in foam based cups. As this type of drink has traditionally been popular with river oriented customers, Staff suggested to the applicant that foam based cups be prohibited. The applicant agreed to serve drinks in paper, plastic, or reusable containers.

Comments from Other Departments

Police	Chief Stapp acknowledges that the sealed bag delivery method complies with the Texas Open Container prohibition. However, Chief Stapp has concerns about the sale of "to go" alcoholic beverages in that such beverages sold in the drive through will likely be consumed while the vehicle is in operation.
Fire	No Comment
Public Services	No Comment
Engineering	No Comment

Staff Recommendation

Approval as Submitted	Approval with Conditions / Alternate	Denial <u>X</u>

Commission Action

Approval as Submitted	Approval with Conditions / Alternate	<u>X</u>	Denial
The Planning and Zoning Commission voted to deny the CUP by a 6-2 vote.			

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Alternate Recommendation

If Council chooses to approve the request, Staff recommends the following conditions:

- Permit shall be valid for one (1) year, provided standards are met.
- Drinks shall not be served in foam based containers.
- The permit shall become effective upon the issuance of the Certificate of Occupancy.
- The permit shall be posted in the same area and manner as the Certificate of Occupancy.

Staff: Will Parrish, CNU-A

Title : Planner

Date: December 18, 2018

Evaluation			Criteria for Approval (Sec. 2.8.3.4 & 5.1.5.5)
Consistent	Inconsistent	Neutral	
		<u>X</u>	The proposed use at the specified location is consistent with the policies embodied in the adopted comprehensive plan.
		<u>N/A</u>	The proposed use is consistent with any adopted neighborhood character study for the area. <i>Neighborhood Character Studies have not been completed for this area.</i>
<u>X</u>			The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations.
	<u>X</u>		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.
<u>X</u>			The proposed use does not generate pedestrian and vehicular traffic which shall be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
	<u>X</u>		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.
	<u>X</u>		The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties.
	<u>X</u>		The proposed use meets the standards for the applicable 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.
<u>X</u>			The proposed use is not within 300 ft. of a detached single family residence located in a zoning district that only permits detached single family residences.
<u>X</u>			The proposed use is not within 300 ft. of a church, public or private school, or public hospital.
<u>X</u>			The proposed use is not within 1,000 ft. of a public or private school as outlined within section 1.5.1.1.