

# Conditional Use Permit CUP-19-05

**1285 S IH 35 Suite 103**  
**The Rollin' Bowl**



## Summary

<b>Request:</b>	A Conditional Use Permit to allow the sale of beer and wine for on premise consumption at 1285 S IH 35, Suite 103		
<b>Applicant:</b>	NLD Healthy Choice INC 13603 Oak Meadows Universal City, Texas 78748	<b>Property Owner:</b>	San Marcos Eatery 500 Capital of Texas Hwy Suite 7 Austin TX, 78746
<b>CUP Expiration:</b>	N/A	<b>Type of CUP:</b>	Beer and Wine
<b>Interior seating:</b>	143	<b>Outdoor seating:</b>	25
<b>Parking Required:</b>	45	<b>Parking Provided:</b>	Yes, Shared
<b>Days &amp; Hours of Operation:</b>	Monday – Thursday: 11 a.m. – 10 p.m. Friday: 11 a.m. – 11 p.m. Saturday: 12 p.m. – 11 p.m. Sunday: 12 p.m. – 9 p.m.		

## Notification

<b>Posted:</b>	February 22, 2019	<b>Personal:</b>	February 22, 2019
<b>Response:</b>	None as of the date of this report		

## Property Description

<b>Legal Description:</b>	Lot 1 Simon Place II Subdivision		
<b>Location:</b>	Near the intersection of IH 35 and Hwy 123		
<b>Acreage:</b>	.776 acres +/-	<b>Central Business Area:</b>	No
<b>Existing Zoning:</b>	General Commercial (GC)	<b>Preferred Scenario:</b>	High Intensity Zone
<b>Existing Use:</b>	Vacant Restaurant	<b>Proposed Use:</b>	Restaurant
<b>CONA Neighborhood:</b>	Sunset Acres	<b>Sector:</b>	5
<b>Utility Capacity:</b>	Adequate		

## Surrounding Area

	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Preferred Scenario</b>
<b>North of Property:</b>	GC	IH 35 / Restaurant	High Intensity
<b>South of Property:</b>	P	San Marcos Electric Headquarters	High Intensity
<b>East of Property:</b>	GC	Restaurants	High Intensity
<b>West of Property:</b>	GC	Restaurants	High Intensity

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The applicant is proposing to open an approximately 4,100 square foot restaurant and is requesting a beer and wine CUP.

This business is located adjacent to Starbucks and is the site of the former Newk's Eatery. This lot has a shared parking agreement with the 54<sup>th</sup> Street Grill and Olive Garden lots. Previously, the Planning and Zoning Commission has heard from concerned neighbors about noise coming from the Olive Garden parking lot late at night that disturbed neighborhood dogs, who in turn made a significant amount of noise themselves.

At their most recent renewal hearing in 2018, Olive Garden agreed to require their employees to park on the far east side of their parking lot, away from the shared property line with the neighborhood.

**Additional Analysis**

Due to concerns over noise expressed by the neighbors regarding the Olive Garden CUP renewal request, Staff feels that it is appropriate to restrict employees of the proposed Rollin' Bowl restaurant from parking in the Olive Garden parking lot.

**Comments from Other Departments**

<b>Police</b>	No Concerns
<b>Fire</b>	The Fire Marshal has expressed concern over a sunken drainage inlet in the driveway between Jonny Carino's and this property. The inlet is on the Johnny Carino's property and they have been made aware that this is an immediate concern and must be addressed. <b>(Awaiting Fire Marshal approval of this comment)</b>
<b>Public Services</b>	No Concerns
<b>Engineering</b>	No Concerns

**Staff Recommendation**

Approval as Submitted	<input checked="" type="checkbox"/>	Approval with Conditions / Alternate	Denial
<ul style="list-style-type: none"> <li>Permit shall be valid for one (1) year, provided standards are met,</li> <li>The employees may not park on the Olive Garden lot,</li> <li>The permit shall be effective upon the issuance of a Certificate of Occupancy, and</li> <li>The permit shall be posted in the same area and manner as the Certificate of Occupancy.</li> </ul>			
<b>Staff:</b> Will Parrish		<b>Title :</b> Planner	<b>Date:</b> March 6, 2019

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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. <b><i>Studies have not been completed at the time of this request</i></b>
<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 as outlined in section 5.1.5.5.
<u>X</u>			The proposed use is not within 1,000 ft. of a public or private school as outlined within section 5.1.5.5(E)(3).