

Conditional Use Permit	312 West Hopkins Street
CUP-19-27	Gumby's Pizza



Summary

Request:	Conditional Use Permit to allow the sale of mixed beverages for on premise consumption.		
Applicant:	Gumby's Pizza 312 West Hopkins Street San Marcos, TX 78666	Property Owner:	312 Ventures LLC 14209 Montour Drive Austin, TX 78717
CUP Expiration:	N/A	Type of CUP:	Alcohol Outside CBA Mixed Beverages
Interior Floor Area:	3200 sq ft	Outdoor Floor Area:	600 sq ft
Parking Required:	11 spaces	Parking Provided:	Yes
Days & Hours of Operation:	Sunday – Saturday: 11 am – 4am		

Notification

Application:	N/A	Neighborhood Meeting:	September 20, 2019
Published:	N/A	# of Participants:	N/A
Posted:	September 20, 2019	Personal:	September 20, 2019
Response:	Five letters in support.		

Property Description

Legal Description:	Original Town of San Marcos, Block 2, Lot 17		
Location:	West Hopkins Street		
Acreage:	.3 acres	PDD/DA/Other:	N/A
Existing Zoning:	CD-5D	Proposed Zoning:	CD-5D
Existing Use:	Restaurant	Proposed Use:	Restaurant
Preferred Scenario:	High Intensity - Downtown	Proposed Designation:	Same
CONA Neighborhood:	Downtown	Sector:	8
Utility Capacity:	Adequate	Floodplain:	No
Historic Designation:	N/A	My Historic SMTX Resources Survey	Yes Low Priority

Surrounding Area

	Zoning	Existing Land Use	Preferred Scenario
North of Property:	CD-5D	Laundromat	High Intensity
South of Property:	CD-5D	Laundromat	High Intensity
East of Property:	CD-5D	Multi-Suite Office / Retail	High Intensity
West of Property:	CD-5D	Sorority House	High Intensity

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Staff Recommendation

Approval as Submitted	<input checked="" type="checkbox"/> Approval with Conditions	Denial
<ul style="list-style-type: none"> The permit shall be valid for one (1) year, provided standards are met; The permit shall be posted in the same area and manner as the Certificate of Occupancy; Live music shall not be allowed outdoors or in any unconditioned areas; and The applicant shall not apply for a Late Hours TABC permit. 		
Staff: Tory Carpenter, CNU-A	Title : Planner	Date: October 3, 2019

History

The applicant first applied for a Conditional Use Permit for alcohol sales at this location in 2016, prior to the business being operational. The timeline below gives an overview of the Planning & Zoning Commission and City Council meeting.

December 13, 2016 – Planning & Zoning Commission Meeting: After numerous citizens addressed the Commission with concerns, the Commission voted unanimously to postpone to allow the Applicant to address the neighbors' concerns.

January 10, 2017 – Planning & Zoning Commission Meeting: The Commission voted (5-1-1) to approve the request with the following conditions:

1. The CUP shall be valid for one (1) year, provided standards are met, subject to the point system;
2. The permit shall be effective upon the issuance of the Certificate of Occupancy;
3. The CUP shall be posted in the same area and manner as the Certificate of Occupancy;
4. The applicant cannot apply for a late hours TABC permit;
5. Bottles can only be disposed of during daylight hours; and
6. Speakers are not permitted outdoors.

January 20, 2017: Staff received an appeal request from Kathryn C. Dillon.

February 2, 2017 – City Council Meeting: The City Council voted (5-2) to approve the appeal and deny the Conditional Use Permit.

February 2, 2018: Gumby's Pizza received a Certificate of Occupancy and opened for business without alcohol sales.

Additional Analysis

Gumby's Pizza has been operating as a bona fide restaurant since opening in early 2018 without issue. However, to ensure that noise does not affect adjacent properties, staff recommends that live music shall not be allowed outdoors or in any unconditioned areas.

Comments from Other Departments

Police	No Comment
Fire	No Comment
Public Services	No Comment
Engineering	No Comment

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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. <i>Studies have not been completed at the time of this request</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.