

# Conditional Use Permit CUP-21-18

## 126 S Guadalupe Street Rooftop on the Square



### Summary

<b>Request:</b>	Renewal of a Restaurant Conditional Use Permit		
<b>Applicant:</b>	Brandon Cash 511 Rio Grande #200 Austin, TX 78701	<b>Property Owner:</b>	San Marcos Assets LLC 511 Rio Grande #200 Austin, TX 78701
<b>CUP Expiration:</b>	June 26, 2021	<b>Type of CUP:</b>	Restaurant
<b>Interior Floor Area:</b>	3000 sq ft	<b>Outdoor Floor Area:</b>	3000 sq ft
<b>Parking Required:</b>	N/A	<b>Parking Provided:</b>	Yes
<b>Days &amp; Hours of Operation:</b>	Monday: Closed    Tuesday thru Sunday: 4pm-2am		

### Notification

<b>Application:</b>	N/A	<b>Neighborhood Meeting:</b>	N/A
<b>Published:</b>	N/A	<b># of Participants:</b>	N/A
<b>Posted:</b>	June 4, 2021	<b>Personal:</b>	June 4, 2021
<b>Response:</b>	Opposition: 0 Support: 0 General Inquiry: 1		

### Property Description

<b>Legal Description:</b>	Original Town of San Marcos, Block 12, Lot 4A		
<b>Location:</b>	Guadalupe Street south of San Antonio Street		
<b>Acreage:</b>	0.166 acres	<b>PDD/DA/Other:</b>	N/A
<b>Existing Zoning:</b>	CD-5D	<b>Proposed Zoning:</b>	N/A
<b>Existing Use:</b>	Restaurant / Bar	<b>Proposed Use:</b>	Same
<b>Preferred Scenario:</b>	Downtown High Intensity	<b>Proposed Designation:</b>	Downtown High Intensity
<b>CONA Neighborhood:</b>	Downtown	<b>Sector:</b>	8
<b>Utility Capacity:</b>	Adequate	<b>Floodplain:</b>	Yes or No
<b>Historic Designation:</b>	N/A	<b>My Historic SMTX Resources Survey</b>	No

### Surrounding Area

	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Preferred Scenario</b>
<b>North of Property:</b>	CD-5D	Retail / Office	High Intensity Zone
<b>South of Property:</b>	CD-5D	Retail / Office	High Intensity Zone
<b>East of Property:</b>	CD-5D	Restaurant	High Intensity Zone
<b>West of Property:</b>	CD-5D	Retail / Office	High Intensity Zone

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**Staff Recommendation**

Approval as Submitted	<input checked="" type="checkbox"/>	<b>Approval with Conditions / Alternate</b>	Denial
<ol style="list-style-type: none"> <li>1. The permit shall be valid for three (3) years provided standards are met;</li> <li>2. The permit shall be effective upon the issuance of the certificate of occupancy;</li> <li>3. No live music and no speakers are permitted in the outdoor patio areas;</li> <li>4. All exterior doors must be maintained in an automatically assisted closed position;</li> <li>5. The business must operate in a manner consistent with the requirements of a restaurant permit every day the business is open to the public; and</li> <li>6. The permit shall be posted in the same area and manner as the Certificate of Occupancy.</li> </ol>			
<b>Staff:</b> Tory Carpenter, AICP, CNU-A		<b>Title :</b> Planner	<b>Date:</b> June 17, 2021

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### History

The Rooftop on the Square is an adaptive reuse of an abandoned car detail facility which opened in May 2012. The following is a summary of the history of events surrounding this establishment:

**2012:** The business first received a Restaurant Conditional Use Permit in which was approved for one year. During 2012, the business received enforcement/citation letters for violations regarding the restaurant requirements associated with the CUP and Certificate of Occupancy requirements. These violations were subsequently resolved by the business.

**2013:** the business received two violations of the Land Development Code, Sec.4.3.4.2(b)3.k. *Knowingly serving alcoholic beverages to clients who are intoxicated.* Due to these violations, the Restaurant Conditional Use Permit was approved for two periods of three months, with conditions in order to monitor the business followed by an approval of six months, with conditions.

**2014:** The Restaurant Conditional Use Permit was approved by the Planning and Zoning Commission for six months with conditions followed by an approval later that year of one year with conditions.

**2015:** The Restaurant Conditional Use Permit was approved for three years with conditions.

**2018:** The Restaurant Conditional Use Permit was approved for three years with conditions.

The first floor of the building most recently included includes a dining area for Brooklyn Pie Co., previously Super Burrito. Based on the menu for Brooklyn Pie Co., all requirements of a Restaurant Conditional Use Permit are met.

The building is currently under construction for a remodel which does not increase the existing alcohol service area.

### Additional Analysis

The business has held a "Red" gun sign permit through TABC indicating that the business earns most of its revenues through alcohol sales.

### Comments from Other Departments

<b>Police</b>	No Comment
<b>Fire</b>	No Comment
<b>Public Services</b>	No Comment
<b>Engineering</b>	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.
<u>X</u>			The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations. <b><i>CD-5D zoning allows for a restaurant use.</i></b>
<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. <b><i>Conditions have consistently been approved to address noise.</i></b>
<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. <b><i>The proposed request is consistent with the established use of the property since 2014.</i></b>
		<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. <b><i>Conditions have consistently been approved to address noise.</i></b>
<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. <b><i>The proposed request was developed under T5-Urban Center Zoning Requirements and is consistent with the requirements at that time.</i></b>
<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.