



## Legislation Details (With Text)

**File #:** ID#20-690      **Version:** 1      **Name:**

**Type:** Action Item      **Status:** Individual Consideration

**File created:** 9/29/2020      **In control:** City Council

**On agenda:** 11/4/2020      **Final action:**

**Title:** Receive a Staff presentation, hold a public hearing regarding and consider the appeal in Case No. CUP-20-13 (Longhorn Daiquiris) of the decision of the Planning and Zoning Commission to deny the request by Andrea Villescaz, for a Conditional Use Permit to allow the sale of beer and wine for on premise consumption at 1617 Aquarena Springs Drive.

**Sponsors:** Amanda Hernandez

**Indexes:**

**Code sections:**

**Attachments:** 1. CUP-20-13 Presentation, 2. CUP-20-13 Staff Report, 3. CUP-20-13 Maps, 4. CUP-20-13 Business Details, 5. CUP-20-13 Application, 6. CUP-20-13 Code Compliance Site Visit and Alcohol Purchase Report, 7. CUP-20-13 Police Department Calls and Complaints

Date	Ver.	Action By	Action	Result
11/4/2020	1	City Council		
11/4/2020	1	City Council		

### **AGENDA CAPTION:**

Receive a Staff presentation, hold a public hearing regarding and consider the appeal in Case No. CUP-20-13 (Longhorn Daiquiris) of the decision of the Planning and Zoning Commission to deny the request by Andrea Villescaz, for a Conditional Use Permit to allow the sale of beer and wine for on premise consumption at 1617 Aquarena Springs Drive.

**Meeting date:** November 4, 2020

**Department:** Planning & Development Services

### **Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

### **Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- ☐ Economic Development - Choose an item.
- ☐ Environment & Resource Protection - Choose an item.
- ☐ Land Use - Choose an item.
- ☐ Neighborhoods & Housing - Choose an item.
- ☐ Parks, Public Spaces & Facilities - Choose an item.
- ☐ Transportation - Choose an item.
- ☐ Core Services
- ☐ Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

Longhorn Daiquiri opened as a food trailer, using the main building as a seating area, in May of 2020. In July, 2020 an application was submitted for a Conditional Use Permit for on premise consumption.

During the month of August, 2020 there were several violations noted by Code Compliance, as well as calls to the Police Department for noise and fighting. The business was found using a kitchen which was not suitable for food service and selling alcoholic beverages. Several noise complaints were made, but there was not confirmation that the sound was from the establishment. The applicant indicated that the police calls on August 2nd were from an event hosted by an outside entity.

TABC was contacted and confirmed violations of the requirements for the sale of alcoholic beverages.

Police, Fire, and Code Compliance have concerns with the continuation of this business at this location and have provided recommendations of denial.

A super majority vote of the City Council is required to reverse the decision of the Planning and Zoning Commission.

**Council Committee, Board/Commission Action:**

- At their regular meeting on September 22, 2020 the Planning and Zoning Commission heard the request and voted to **deny** the new Conditional Use Permit with a 9-0 vote.
- The applicant joined the meeting immediately following the denial vote. The Commission voted 4-3 to **reconsider** the request due to the applicant's technical issues.
- Following the applicant's presentation, the Planning and Zoning Commission voted to **deny** the new Conditional Use Permit with a 9-0 vote.

**Alternatives:**

Staff provides the following conditions for consideration, should the City Council choose to approve the request:

1. The permit shall be valid for six (6) months, provided standards are met,
2. The permit shall be effective upon completion of a functioning kitchen that meets all Environmental Health requirements to allow for food preparation,
3. The establishment shall meet all COVID orders and guidelines, including requirement for face coverings where 6 feet of social distancing is not feasible and limiting the establishment to 50% capacity,
4. No alcoholic beverages may be consumed on premises after the posted hours of operation,
5. Alcohol sales shall constitute 50% or less of total gross receipts and shall be confirmed by posting of a TABC required blue weapons warning sign,
6. No outdoor live or amplified music shall be allowed, and
7. The permit shall be posted in the same area and manner as the Certificate of Occupancy.

**Recommendation:**

Staff recommended **denial** of the Conditional Use Permit.