



Legislation Text

File #: CUP-20-21, **Version:** 1

AGENDA CAPTION:

CUP-20-21 (Gumby's Pizza) Hold a public hearing and consider a request by Gumby's of San Marcos LLC on behalf of 312 Ventures for a renewal of a Conditional Use Permit for the sale of mixed beverages for on-premise consumption at 312 W. Hopkins Street. (W. Parrish)

Meeting date: November 10, 2020

Department: Planning and Zoning Commission

Amount & Source of Funding

Funds Required: NA

Account Number: NA

Funds Available: NA

Account Name: NA

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:

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 concerns with the request, the Commission voted unanimously to postpone to allow the Applicant to address 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.

October 8, 2019 - Planning & Zoning Commission Meeting: The Commission voted 8-0 to approve the request with the following conditions:

1. The permit shall be valid for one (1) year, provided standards are met;
2. The permit shall be posted in the same area and manner as the Certificate of Occupancy;
3. Live music shall not be allowed outdoors or any unconditioned areas; and
4. The applicant shall not apply for a Late Hours TABC permit.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

Staff has reviewed the application against the criteria in Sections 2.8.3.4 and 5.1.5.5 of the San Marcos Development Code and recommends approval of the request with the following conditions:

1. The permit shall be valid for three (3) years, provided standards are met;
2. The permit shall be posted in the same area and manner as the Certificate of Occupancy;
3. Live music shall not be allowed outdoors or any unconditioned areas; and
4. The applicant shall not apply for a Late Hours TABC permit.