



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Regular Meeting Agenda - Final Planning and Zoning Commission

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Tuesday, July 22, 2014

6:00 PM

City Council Chambers

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630 E. Hopkins

- I. Call To Order
- II. Roll Call
- III. Chairperson's Opening Remarks
- IV. 30 Minute Citizen Comment Period

### CONSENT AGENDA

1. Consider approval of the minutes of the Regular Meeting on July 8, 2014.

### PUBLIC HEARINGS

2. CUP-14-23 (Tres Hermanas) Hold a public hearing and consider a request by David Chiu for renewal of a Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 2550 Hunter Road.
3. CUP-14-24 (Chances "R") Hold a public hearing and consider a request by Johnny L. Finch for an amendment to an existing Conditional Use Permit (CUP) to expand the service area for the sale of mixed beverages for on-premise consumption to a rear patio at 138 & 142 S. LBJ.
4. CUP-14-25 (Rooftop on the Square) Hold a public hearing and consider a request by Brandon Cash on behalf of Rooftop on the Square for a renewal of an existing Conditional Use Permit to allow for the continued sale of mixed beverages for on-site consumption at 126 S Guadalupe Street

### NON-CONSENT AGENDA

5. Presentation, discussion, and direction to staff on the Land Development Code Revisions (Code SMTX).
6. Development Services Report:
  - a. Rhythm of the Street - July 26th

- V. Question and Answer Session with Press and Public.

VI. Adjournment

Notice of Assistance at the Public Meetings

I certify that the attached notice and agenda of items to be considered by the Planning and Zoning Commission was removed by me from the City Hall bulletin board on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_ Title:  
\_\_\_\_\_



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Legislation Text

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**File #:** ID#13-453, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of the minutes of the Regular Meeting on July 8, 2014.

**Meeting date:** July 22, 2014

**Department:** Development Services

**Funds Required:** n/a

**Account Number:** n/a

**Funds Available:** n/a

**Account Name:** n/a

**CITY COUNCIL GOAL:**

**BACKGROUND:**



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Meeting Minutes Planning and Zoning Commission

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Tuesday, July 8, 2014

6:00 PM

City Council Chambers

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630 E. Hopkins

### I. Call To Order

**With a quorum present, the regular meeting of the San Marcos Planning and Zoning Commission was called to order by Chair Wood at 6:00 p.m. on Tuesday, July 8, 2014 in the Council Chambers of the City of San Marcos, City Hall, 630 E. Hopkins, San Marcos, Texas 7866**

### II. Roll Call

- Present** 8 - Commissioner Kenneth Ehlers, Commissioner Jane Hughson, Commissioner Travis Kelsey, Commissioner Brian Olson, Commissioner Angie Ramirez, Commissioner Curtis Seebeck, Commissioner Amy Stanfield, and Commissioner Chris Wood
- Absent** 1 - Commissioner Corey Carothers

### III. Chairperson's Opening Remarks

### IV. 30 Minute Citizen Comment Period

*There were no comments.*

## CONSENT AGENDA

1. Consider approval of the minutes of the Regular Meeting on June 24, 2014.
2. PC-14-12\_04 (Dennis Patrick McCoy Memorial Subdivision Replat) Consider a request by Ramsey Engineering, LLC, on behalf of McCoy Corporation, for approval of a Replat and associated Subdivision Improvement Agreement for lot 1-B of the Dennis Patrick McCoy Memorial Subdivision, approximately 19.382 acres, more or less located on McCoy Circle near IH 35.

**A motion was made by Commissioner Ehlers, seconded by Commissioner Kelsey, that the Consent Agenda be approved. The motion carried by the following vote:**

**For:** 8 - Commissioner Ehlers, Commissioner Hughson, Commissioner Kelsey, Commissioner Olson, Commissioner Ramirez, Commissioner Seebeck, Commissioner Stanfield and Commissioner Wood

**Against:** 0

**Absent:** 1 - Commissioner Carothers

## PUBLIC HEARINGS

3. CUP-14-22 (The Triple Crown) Hold a public hearing and consider a request by A.E. Manning, Inc., on behalf of The Triple Crown, for an amendment to an existing Conditional Use Permit (CUP) to expand the service area for the sale of mixed beverages for on-premise consumption to a rear deck addition.

*Chair Wood opened the public hearing.*

*Will Parrish, Planning Technician gave an overview of the project.*

*There were no comments and the public hearing was closed.*

**A motion was made by Commissioner Kelsey, seconded by Commissioner Olson, that this Action Item be approved with conditions that the permit shall be valid for the life of the TABC Permit, provided standards are met, subject to the point system, and the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:**

**For:** 8 - Commissioner Ehlers, Commissioner Hughson, Commissioner Kelsey, Commissioner Olson, Commissioner Ramirez, Commissioner Seebeck, Commissioner Stanfield and Commissioner Wood

**Against:** 0

**Absent:** 1 - Commissioner Carothers

## NON-CONSENT AGENDA

4. Development Services Report:
- Code SMTX update
  - Rhythm of the Street - July 26, 2014
  - October 14, 2014 P&Z Commission Meeting
  - P&Z Bylaws schedule update

*John Foreman gave an overview of the schedule of events for Code SMTX and the Rhythm of the Street.*

*Kristy Stark advised the Commission that there will not be a Planning Commission Meeting on October 14, 2014 due to schedule conflicts.*

*Francis Serna advised the Commission that the Planning Commission Bylaws will be posted on the August 12th Planning and Zoning Commission meeting for review and August 26th for approval. She asked the Commission to submit their comments prior to the August 12th meeting.*

## V. Question and Answer Session with Press and Public.

*There were no comments from the press and public.*

## VI. Adjournment

**A motion was made by Commissioner Seebeck, seconded by Commissioner Stanfield, that the meeting be adjourned at 6:16 p.m. The motion carried by a unanimous vote.**

\_\_\_\_\_  
Chris Wood, Commission Chair

\_\_\_\_\_  
Kenneth Ehlers, Commissioner

\_\_\_\_\_  
Travis Kelsey, Commissioner

\_\_\_\_\_  
Angie Ramirez, Commissioner

\_\_\_\_\_  
Curtis Seebeck, Commissioner

\_\_\_\_\_  
Jane Hughson, Commissioner

\_\_\_\_\_  
Amy Stanfield, Commissioner

\_\_\_\_\_  
Brian Olson, Commissioner

ATTEST:

\_\_\_\_\_  
Francis Serna, Recording Secretary

Notice of Assistance at the Public Meetings

I certify that the attached notice and agenda of items to be considered by the Planning and Zoning Commission was removed by me from the City Hall bulletin board on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_ Title:  
\_\_\_\_\_



## Legislation Text

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**File #:** CUP-14-23, **Version:** 1

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**AGENDA CAPTION:**

CUP-14-23 (Tres Hermanas) Hold a public hearing and consider a request by David Chiu for renewal of a Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 2550 Hunter Road.

**Meeting date:** 7/22/14

**Department:** Development Services

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

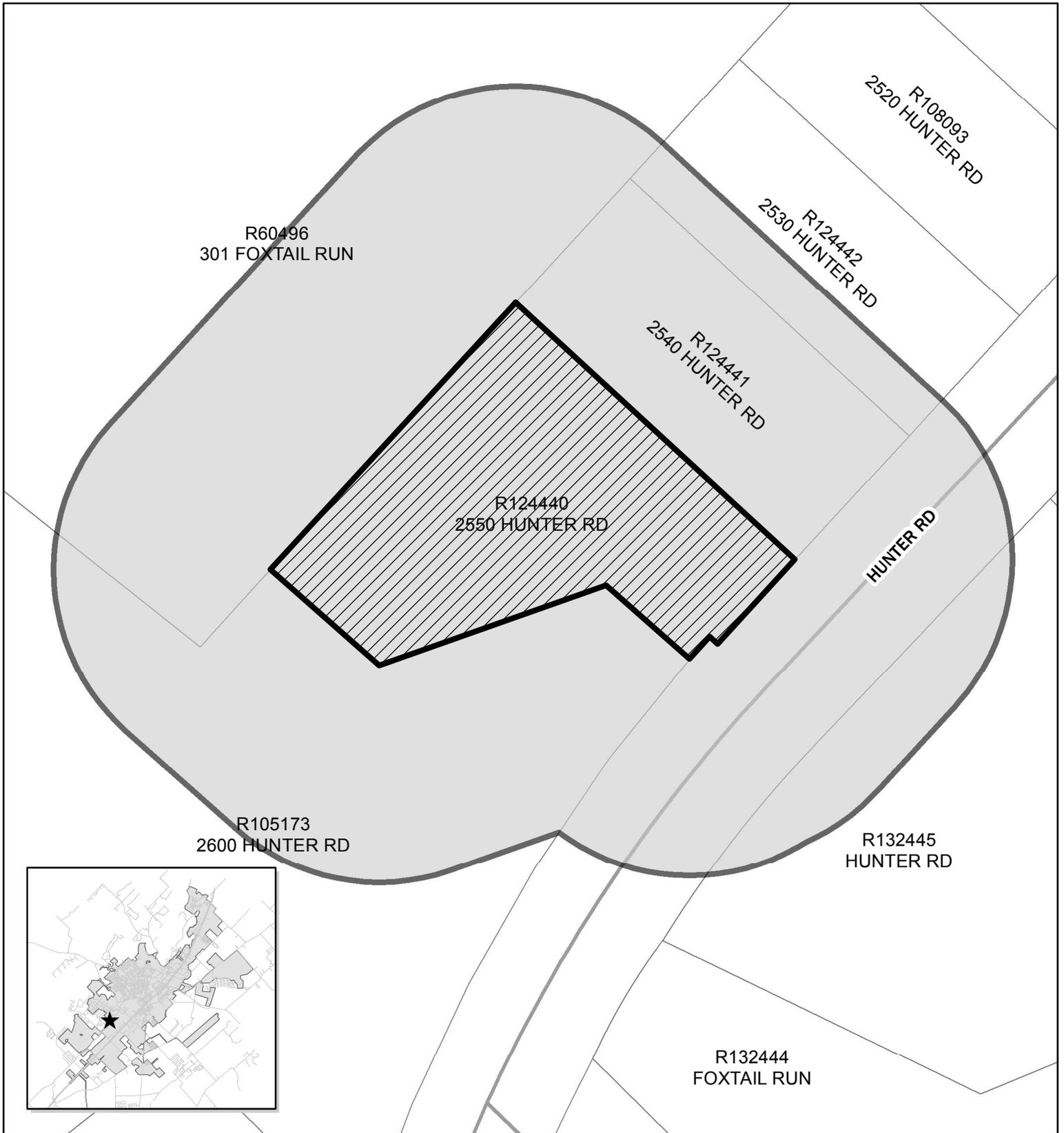
**CITY COUNCIL GOAL:** Community Wellness/ Strengthen the Middle Class

**BACKGROUND:**

In 2007, the applicant received a variance to allow the application for a CUP for an alcohol-serving restaurant less than 300 feet from a public school, provided certain standards were met. The CUP was granted but expired in 2009. Upon the expiration of the CUP, the variance expired as well. The applicant was granted a new variance and CUP in August 2013. As a requirement of the variance, the CUP is subject to annual renewal.

The applicant has met all requirements. Staff provides this request to the Commission for your consideration and recommends **approval** of the Conditional Use Permit with the following conditions:

1. The CUP shall be valid for one (1) year, provided standards are met, subject to the point system.
2. Include the statement "Due to the close proximity of a school campus, please be alert for students and drive carefully. This restaurant will accommodate, as necessary, any individual that needs transportation after consuming alcoholic beverages" on the restaurant menus;
3. The restaurant shall operate such that gross revenue from alcohol sales will be less than 25% of total gross revenue for the business, with the restaurant submitting annual reports indicating this condition has been met;
4. The primary entrance for the restaurant shall remain at least 200 feet from the primary entrance of the school; and
5. Alcoholic beverages shall not be served earlier than 11 a.m. or later than 10 p.m.



**CUP-14-23**  
**Tres Hermanas**  
**2550 Hunter Road**  
**Map Date: 7/10/2014**

-  Site Location
-  Notification Buffer (200 feet)



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

# CUP-14-23

## Conditional Use Permit

### Tres Hermanas Restaurant

### 2550 Hunter Road



**Applicant Information:**

Applicant: David Chiu  
P.O. Box 1014  
San Marcos TX 78667

Property Owner: David Chiu  
P.O. Box 1014  
San Marcos TX 78667

Applicant Request: Renewal of a Conditional Use Permit (CUP) to allow on-premise consumption of mixed beverages at a restaurant establishment.

Notification: Public hearing notification mailed on July 11, 2014

Response: None to date

**Subject Property:**

Expiration Date: August 6, 2014

Location: 2550 Hunter Road

Legal Description: Hunters Hill Section 1, Lot 3

Frontage On: Hunter Rd

Neighborhood: None

Existing Zoning: Community Commercial

Preferred Scenario Designation: Area of Stability

Existing Utilities: Adequate

Existing Use of Property: Restaurant

Proposed Use of Property: Same

Zoning and Land Use Pattern:

	<b>Current Zoning</b>	<b>Existing Land Use</b>
<b>N of Property</b>	P	Public, Doris Miller Junior High School
<b>S of Property</b>	GC	Vacant
<b>E of Property</b>	CC	Vacant
<b>W of Property</b>	MF-24	Apartments; Mariposa

### **Code Requirements:**

A business applying for on-premise consumption of alcohol must not be within 300 feet of a church, school, hospital, or a residence located within a zoning district that limits density to six units per acre or less. The location **does not** meet these distance requirements. The Land Development Code [Section 4.3.4.2(b)(3)] allows a variance to the distance requirements permitting alcohol-serving restaurants to seek a CUP, provided certain conditions are met. A variance was approved by City Council in 2013 which is still valid. The CUP will be subject to the standards for on-premise consumption of alcoholic beverages, and the penalty point system for violations (Section 4.3.4.2).

The business is not within the CBA.

### **Comments from Other Departments:**

Building, Police, Engineering, Fire, Environmental Health, and Code Enforcement have reported no major concerns regarding the subject property.

### **Case Summary**

The restaurant is located in a multi-tenant building designed to contain three restaurants, retail/office lease space, and four loft apartments. In 2007, the applicant received a variance to allow the applicant to apply for a CUP for an alcohol-serving restaurant less than 300 feet from a public school, provided certain standards were met. The applicant was then granted a CUP which authorized the on-premise consumption of alcohol for one year. The CUP was renewed for an additional year in 2008 which expired July 12, 2009. Upon the expiration of the CUP, the variance expired as well. Staff sent a letter in May 2013 notifying the applicant that the CUP had expired. The applicant was granted a new variance and CUP in August 2013.

Capacity is shown as 150 seats with hours of operations from 11AM to 9:30PM. A full menu is offered and the applicant states that there have been no substantial changes to the floor plan or site.

### **Planning Department Analysis:**

As a condition of the CUP and the variance, the applicant must submit a report showing that alcohol sales are no more than 25% of the total gross revenue of the business for the previous year. The applicant has provided this report, which shows alcohol of approximately 13% of gross revenue. Several of the conditions recommended are from the original CUP and repeat requirements found in Section 4.3.4.2(b)(3) of the Land Development Code. This is to clarify the requirements. Also, it acknowledges the needs of the San Marcos Consolidated Independent School District, which had to consent to the variance so the applicant could seek the CUP. The business has complied with these conditions.

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department's standard recommendation is that they be approved initially for a limited time period. Other new conditional use permits have been approved as follows:

- Initial approval for 1 year;
- Renewal for 3 years;
- Final approval for the life of the State TABC license, provided standards are met.

However, 4.3.4.2 (b) (3) (a) (5) requires that properties operating under the variance for distance requirements be subject to annual renewals.

Staff provides this request to the Commission for your consideration and recommends approval of the Conditional Use Permit with the following conditions:

1. The CUP shall be valid for one (1) year, provided standards are met, subject to the point system.
2. Include the statement “Due to the close proximity of a school campus, please be alert for students and drive carefully. This restaurant will accommodate, as necessary, any individual that needs transportation after consuming alcoholic beverages” on the restaurant menus;
3. The restaurant shall operate such that gross revenue from alcohol sales will be less than 25% of total gross revenue for the business, with the restaurant submitting annual reports indicating this condition has been met;
4. The primary entrance for the restaurant shall remain at least 200 feet from the primary entrance of the school; and
5. Alcoholic beverages shall not be served earlier than 11 a.m. or later than 10 p.m.

Planning Department Recommendation:	
	Approve as submitted
<b>X</b>	Approve with conditions or revisions as noted
	Alternative
	Denial

**Commission's Responsibility:**

The Commission is required to hold a public hearing and receive comments regarding the proposed Conditional Use Permit. After considering public input, the Commission is charged with making a decision on the Permit. Commission approval is discretionary. The applicant, or any other aggrieved person, may submit a written appeal of the decision to the Planning Department within 10 working days of notification of the Commission's action, and the appeal shall be heard by the City Council.

The Commission's decision is discretionary. Provided the request meets the minimum requirements of section 4.3.4.2 of the LDC, the Commission shall also evaluate the impact of the proposed conditional use on surrounding properties under section 1.5.7.5 of the LDC, by considering the extent to which the use:

- is consistent with the policies of the Master Plan and the general intent of the zoning district;
- is compatible with the character and integrity of adjacent developments and neighborhoods;
- includes improvements to mitigate development-related adverse impacts; and
- does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic in the neighborhood.

Conditions may be attached to the CUP that the Commission deems necessary to mitigate adverse effects of the proposed use and to carry out the intent of the Code.

**Prepared by:**

Tory Carpenter, CNU-A	Planner	July 9, 2014
<b>Name</b>	<b>Title</b>	<b>Date</b>

Tres Hermanas Cantina  
 2550 Hunter Road Suite 1106  
 San Marcos, Tx 78666  
 (512) 878-2405

\*\*\* TOTAL SALES REPORT BY CATEGORY \*\*\*

From 1/1/2013 To 12/31/2013

	SALES AMOUNT	PERCENTAGE
	-----	-----
A La Carte	17,185.51	3.74%
American	10,509.38	2.29%
Bar	3,135.81	0.68%
Beer	15,402.00	3.35%
Beverages	25,161.76	5.48%
Botanas	42,208.17	9.19%
Breakfast Tacos	332.72	0.07%
Catering	40,870.86	8.90%
College Deliver	1,801.18	0.39%
Dessert	2,077.15	0.45%
Ench Platter	43,304.91	9.43%
Fajitas Patters	33,406.37	7.27%
House Specials	65,126.74	14.18%
Liquor	7,116.25	1.55%
Los Ninos Menu	6,219.43	1.35%
Lunch Specials	42,569.79	9.27%
Margaritas	32,815.25	7.15%
MISC	8,645.36	1.88%
Seafood	6,771.45	1.47%
Soup N Salads	20,759.58	4.52%
Steak	6,648.92	1.45%
Steak N Seafood	2,927.06	0.64%
Taco N Chalupa	22,171.88	4.83%
wine	2,090.79	0.46%
	-----	-----
GROSS CATEGORY SALES:	459,258.30	100.00%
ORDER SURCHARGES:	0	
ORDER DISCOUNTS: (Less)	-3,062.94	
CASH DISCOUNTS: (Less)	-98.63	
CREDITS USED: (Less)	0	
Variance:	0.03	
SALES TAX:	31,404.79	
Mix Bev Sales Tax:	0	
	=====	
GROSS SALES:	\$487,501.60	
Liquor/Beer/Wine Sales	13.19%	

\*\*\*\*\*  
 Note: Refunds, if any, are not reflected in this report.  
 \*\*\*\*\*

**RESOLUTION 2013-115R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, APPROVING A CONDITIONAL USE PERMIT VARIANCE UNDER SECTION 4.3.4.2 OF THE LAND DEVELOPMENT CODE TO ALLOW TRES HERMANAS RESTAURANT TO SERVE ALCOHOL FOR ON-SITE CONSUMPTION AT 2550 HUNTER ROAD WHICH LOCATION IS LESS THAN 300 FEET FROM DORIS MILLER JUNIOR HIGH SCHOOL; AND DECLARING AN EFFECTIVE DATE.**

**RECITALS:**

1. Section 4.3.4.2 (b)(2) of the Land Development Code which governs conditional use permits for on-site alcoholic beverage consumption establishes a minimum distance of 300 feet between restaurants serving alcohol for on-site consumption and any public school.

2. Section 4.3.4.2 (b)(3) authorizes the City Council to approve a variance from said 300 foot distance requirement under appropriate circumstances. Tres Hermanas Restaurant has requested a variance from such 300 foot distance requirement.

3. The gross revenue from the sale of alcohol of Tres Hermanas Restaurant will be less than 25 percent of the total gross revenue of the restaurant;

4. There is a distance of at least 200 feet from the primary entrance of Tres Hermanas Restaurant at its location of 2550 Hunter Road to the primary entrance of Doris Miller Junior High School, the nearest public school.

5. The San Marcos Consolidated Independent School District has consented in writing to the variance subject to the following being printed on the restaurant's menus:

"Due to the close proximity of a school campus, please be alert for students and drive carefully. This restaurant will accommodate, as necessary, any individual that needs transportation after consuming alcoholic beverages."

6. The Planning and Zoning Commission after a public hearing, voted to recommend approval of the variance, subject to the requirements of § 4.3.4.2 of the Land Development Code and the conditions requested by the San Marcos Consolidated Independent School District.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** The City Council hereby finds and determines that the statements in the Recitals are true.

**PART 2.** Pursuant to § 4.3.4.2 (b)(3) of the Land Development Code, a conditional use permit variance is hereby granted to allow Tres Hermanas Restaurant to serve alcohol for on-site consumption from its location at 2550 Hunter Road.

**PART 3.** The variance granted under Part 1 is subject to all applicable requirements of § 4.3.4.2 (b)(3) of the Land Development Code and the condition that the following be printed on the restaurant's menus:

"Due to the close proximity of a school campus, please be alert for students and drive carefully. This restaurant will accommodate, as necessary, any individual that needs transportation after consuming alcoholic beverages."

**PART 4.** The variance granted under Part 1 shall continue for the life of the conditional use permit granted to Tres Hermanas Restaurant by the City's Planning and Zoning Commission on July 23, 2013 in conjunction with this variance, subject to annual renewal of the conditional use permit in accordance with the requirements of § 4.3.4.2 of the Land Development Code. In the event the conditional use permit expires, is revoked or otherwise lapses, the variance granted herein shall terminate.

**PART 5.** This Resolution shall be in full force and effect from and after its passage.

**ADOPTED** on August 6, 2013.

Mayor



Daniel Guerrero, Mayor

Attest:



Jamie Lee Pettijohn  
City Clerk

City of San Marcos

CONDITIONAL USE PERMIT APPLICATION  
To Allow On-Premise Consumption of Alcoholic Beverages  
Outside the Central Business Area

LICENSE INFORMATION

Trade Name of Business: TRES HERMANAS RESTAURANT

Application is filed by:

Individual  Partnership  Corporation  Other: \_\_\_\_\_

Name of Individual or Entity: DAVID CHIU Phone Number: (512) 353-3470

Mailing Address: 2550 HUNTER RD, STE 1100, SM, TX 78666

Email Address: \_\_\_\_\_

Type of Permit Requested:  Mixed Beverage  Beer & Wine  Other: \_\_\_\_\_

PROPERTY

Street Address: 2550 HUNTER RD Current Zoning: \_\_\_\_\_

Legal Description: Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision \_\_\_\_\_

Tax ID Number: R \_\_\_\_\_

Property Owner's Name: DAVID CHIU Phone Number: (512) 353-3470

Address: 311 LAUREL HILL, SM, TX 78666

BUSINESS DETAILS

Primary Business Use:  Restaurant  Bar  Other: \_\_\_\_\_

Hours of Operation: MONDAY - SUNDAY 11 AM - 9:30 PM

Type of Entertainment Facilities: \_\_\_\_\_

Indoor Fixed Seats Capacity: \_\_\_\_\_ Outdoor Fixed Seats: \_\_\_\_\_

Gross Floor Area Including Outdoor Above-ground Decks: \_\_\_\_\_ Square Feet

Number of Off-Street Parking Spaces Provided: \_\_\_\_\_

Located more than 300 feet from church, public school, hospital, low density residential?  Y  N

**APPLICATION FOR CITY OF SAN MARCOS CONDITIONAL USE PERMIT-TABC**

**CUP PERMIT HISTORY** *Check all that apply*

- New request, no existing TABC CUP Permit at this location
- Change to existing TABC Permit. Nature of Change: \_\_\_\_\_
- Renewal
- Change in name of license holder of existing business at same location
- Change in name of existing business at this location

**SUBMITTAL REQUIREMENTS**

- Beer and Wine Permit: \$600 Application fee + \$10.00 Technology Fee (non-refundable)
- Mixed Beverage Permit: \$600 Application fee + \$10.00 Technology Fee (non-refundable)
- Change to Existing Permit/Renewal: \$300.00 fee + \$10.00 Technology Fee (non-refundable)
- Site Plan drawn to scale, preferably on paper no larger than 11" x 17", showing dimensions of property, locations and square footage of building(s), interior layout showing dimensions of tables, bar area, etc., number of off-street paved parking spaces, and fences buffering residential uses.
- **Copy of State TABC License Application**

*I certify that this information is complete and accurate. I understand that I or a representative should be present at all meetings regarding this application.*

- I am the property owner of record; or
- I have attached authorization to represent the owner, organization, or business in this application.

*David Cain*

**Applicant's Signature**

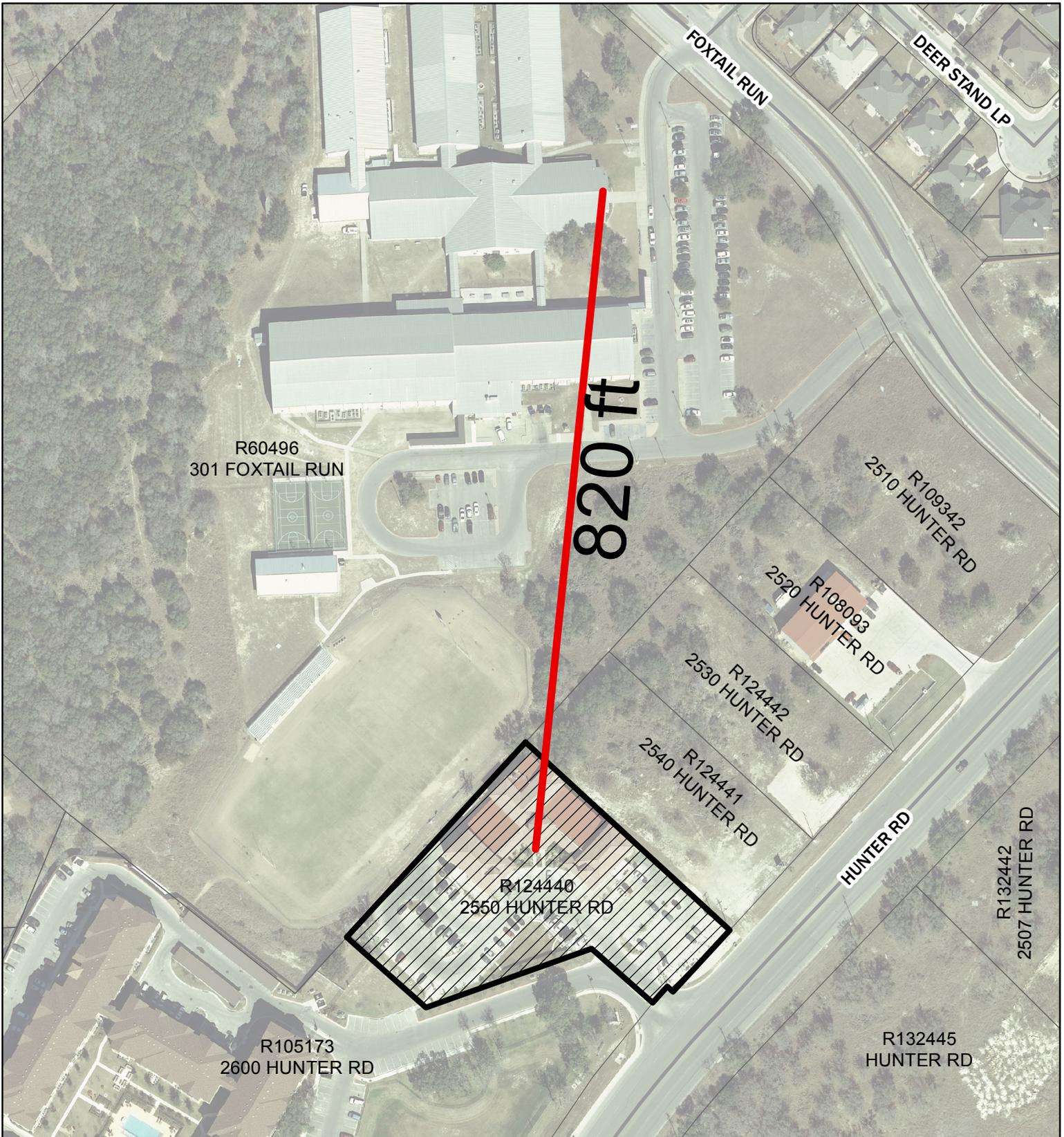
**Printed Name:** DAVID CAIN

**Date:** 5-23-14

*To be completed by Staff:*

Meeting Date: \_\_\_\_\_ Application Deadline: \_\_\_\_\_

Accepted By: \_\_\_\_\_ Date: \_\_\_\_\_



# Door to Door Measurement



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



## Legislation Text

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**File #:** CUP-14-24, **Version:** 2

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**AGENDA CAPTION:**

CUP-14-24 (Chances "R") Hold a public hearing and consider a request by Johnny L. Finch for an amendment to an existing Conditional Use Permit (CUP) to expand the service area for the sale of mixed beverages for on-premise consumption to a rear patio at 138 & 142 S. LBJ.

**Meeting date:** 07/22/14

**Department:** Development Services

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

**CITY COUNCIL GOAL:** Community Wellness/ Strengthen the Middle Class

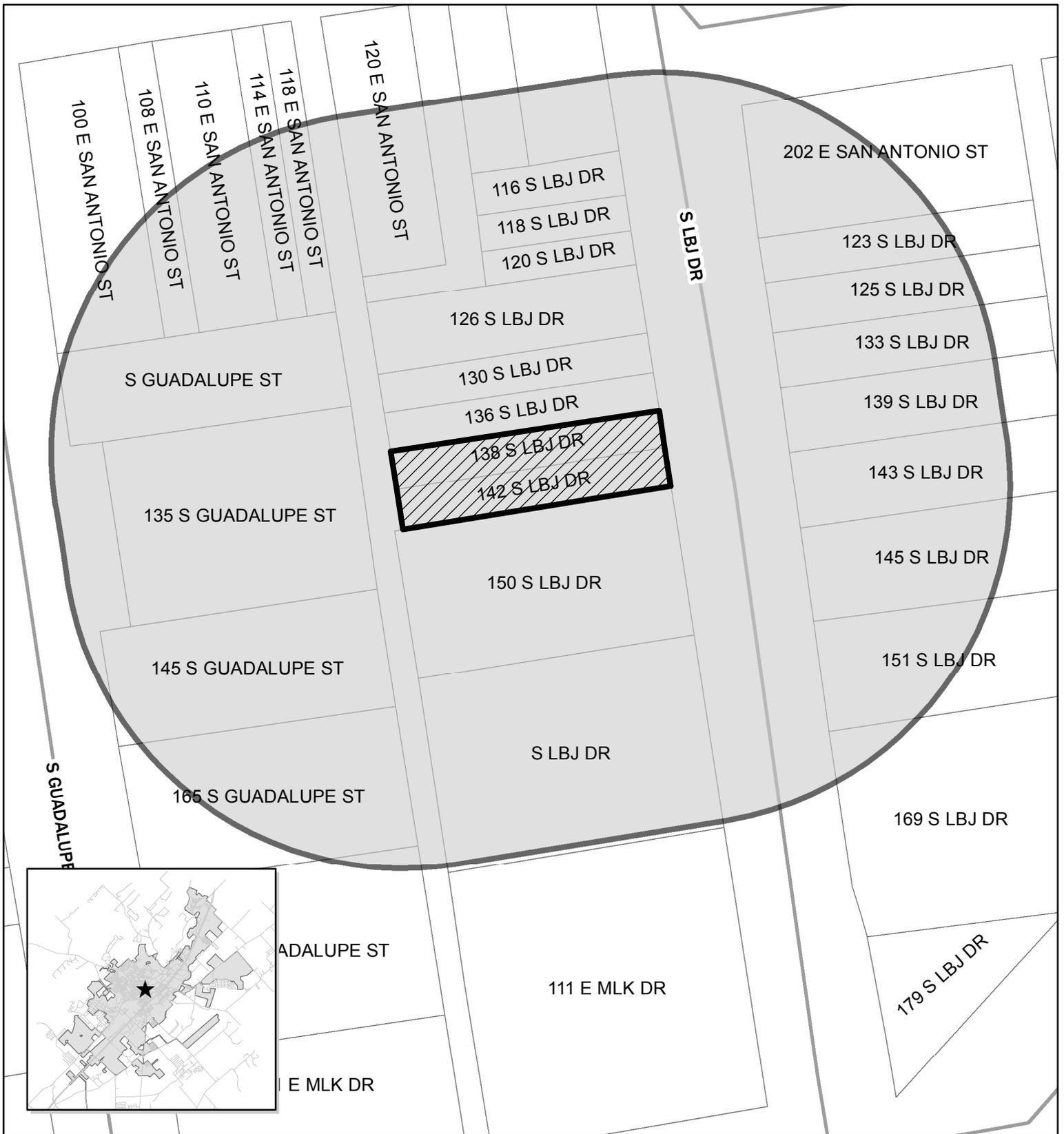
**BACKGROUND:**

The patio will extend from the rear of Chances "R" onto the neighboring property, which is also owned by the applicant. Since both properties are under common ownership and on the same legal lot, the structure can cross the property lines without any additional approval. The gross floor area of the expansion is approximately 1600 square feet and includes an area for restrooms. The applicant stated that he may wish to install speakers on the patio area. Since the peak hours of operation are compatible with surrounding businesses and there are no residences near the property, staff does not consider noise to be an issue at this time.

Staff has reviewed the request for compliance with the Land Development Code and it appears that the request is consistent with the policies and the general intent of the zoning district and recommends **approval** with the following conditions:

**Staff recommends approval of the Conditional Use Permit with the following conditions:**

- 1. The permit shall be valid for one (1) year from issuance of the Certificate of Occupancy for the patio, provided standards are met, subject to the point system; and**
- 2. The permit shall be posted in the same area and manner as the Certificate of Occupancy.**



**CUP-14-23**  
**Chances "R"**  
**138 & 142 S LBJ**  
**Map Date: 7/11/2014**

-  Site Location
-  Notification Buffer (200 feet)

0 50 100 200 Feet



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# CUP-14-24

## Conditional Use Permit

### Chances "R"

### 138 S LBJ Dr



**Applicant Information:**

**Applicant:** Johnny L. Finch  
 PO Box 118  
 San Marcos, TX 78667

**Property Owner:** Johnny L. Finch  
 PO Box 118  
 San Marcos, TX 78667

**Applicant Request:** An amendment to an existing Unrestricted Conditional Use Permit (CUP) to expand the service area for the sale of mixed beverages for on-premise consumption to a rear patio addition.

**Public Hearing Notice:** Public hearing notification was mailed on 7/10/2014

**Response:** None to date

**Subject Property:**

**Expiration Date:** None

**Location:** 138 S LBJ

**Legal Description:** Original Town of San Marcos part of lot 2, block 13

**Frontage On:** S LBJ

**Neighborhood:** Downtown

**Existing Zoning:** T5

**Preferred Scenario Zone:** High Intensity Zone

**Utilities:** Adequate

**Existing Use of Property:** Bar

**Zoning and Land Use Pattern:**

	Current Zoning	Existing Land Use
<b>N of property</b>	T5	Commercial
<b>S of property</b>	T5	Commercial
<b>E of property</b>	T5	Commercial
<b>W of property</b>	T5	Commercial

## **Code Requirements:**

A Conditional Use Permit (CUP) allows the establishment of uses which may be suitable only in certain locations or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are generally compatible with permitted uses, but require individual review and imposition of conditions in order to ensure the appropriateness of the use at a particular location.

A business applying for on-premise consumption of alcohol must not be within 300 feet of a church, school, hospital, or a residence located within a zoning district that limits density to six units per acre or less. This location **does** meet the distance requirements.

CUPs issued for on-premise consumption of alcohol make the business subject to the code standards and the penalty point system for violations (Section 4.3.4.2). This location is within the Central Business Area (CBA) and this is a request to expand an existing Unrestricted CUP.

## **Background**

The CUP for this property has existed as long as our CUP process. The most recent change to the CUP came in 2013 when the bar changed names from the Restless Wind to Chances "R". Ownership of the business changed at that time as well. The applicant is proposing to amend the CUP to expand the service of on-premise consumption to an outdoor smoking patio.

The patio will extend from the rear of Chances "R" onto the neighboring property, which is also owned by the applicant. Since both properties are under common ownership and on the same legal lot, the structure can cross the property lines without any additional approval. The gross floor area of the expansion is approximately 1600 square feet and includes an area for restrooms. The applicant stated that he may wish to install speakers on the patio area. Since the peak hours of operation are compatible surrounding businesses and there are no residences near the property, staff does not consider noise to be an issue at this time.

## **Comments from Other Departments:**

There have been no major concerns regarding the subject property reported by other City Departments.

## **Planning Department Analysis:**

Staff has reviewed the request for compliance with the Land Development Code and it appears that the request is consistent with the policies and the general intent of the zoning district.

In addition to the minimum requirements of section 4.3.4.2 of the LDC, staff has considered the impact of the proposed conditional use on surrounding properties under the section 1.5.7.5 of the LDC. Staff finds that the request does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic, and no other specific adverse impacts were identified at this time. Staff has not received any citizen comments or comments from other departments regarding this establishment. The request to expand the service area should not have any adverse effects on adjacent property owners.

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department's standard recommendation is that they be approved initially for a limited time period. Other new conditional use permits have been approved as follows:

- Initial approval for 1 year;
- Renewal for 3 years;
- Final approval for the life of the State TABC license, provided standards are met.

In order to monitor possible negative impacts of allowing service outdoors, staff recommends approval for 1 year.

**Staff recommends approval of the Conditional Use Permit with the following conditions:**

1. The permit shall be valid for one (1) year from issuance of the Certificate of Occupancy for the patio, provided standards are met, subject to the point system; and
2. The permit shall be posted in the same area and manner as the Certificate of Occupancy.

Planning Department Recommendation:	
	Approve as submitted
X	Approve with conditions or revisions as noted
	Alternative
	Denial

**Commission's Responsibility:**

The Commission is required to hold a public hearing and receive comments regarding the proposed Conditional Use Permit. After considering public input, the Commission is charged with making a decision on the Permit. Commission approval is discretionary. The applicant, or any other aggrieved person, may submit a written appeal of the decision to the Planning Department within 10 working days of notification of the Commission's action, and the appeal shall be heard by the City Council.

The Commission's decision is discretionary. Provided the request meets the minimum requirements of section 4.3.4.2 of the LDC, the Commission shall also evaluate the impact of the proposed conditional use on surrounding properties under section 1.5.7.5 of the LDC, by considering the extent to which the use:

- is consistent with the policies of the Master Plan and the general intent of the zoning district;
- is compatible with the character and integrity of adjacent developments and neighborhoods;
- includes improvements to mitigate development-related adverse impacts; and
- does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic in the neighborhood.

Conditions may be attached to the CUP that the Commission deems necessary to mitigate adverse effects of the proposed use and to carry out the intent of the Code.

**Prepared by:**

Tory Carpenter

Planner

7/15/2014

---

**Name**

**Title**

**Date**



ashandassociates.net

142  
JACKSON LN.  
SAN MARCOS  
TEXAS  
78666  
512.392.1719

ARCHITECTURE  
ENGINEERING  
SURVEYING  
PLANNING

**DESIGNATED SMOKING PORCH**  
142 S. LBJ DRIVE, SAN MARCOS, TEXAS 78666

NOTES/REVISIONS/REMARKS

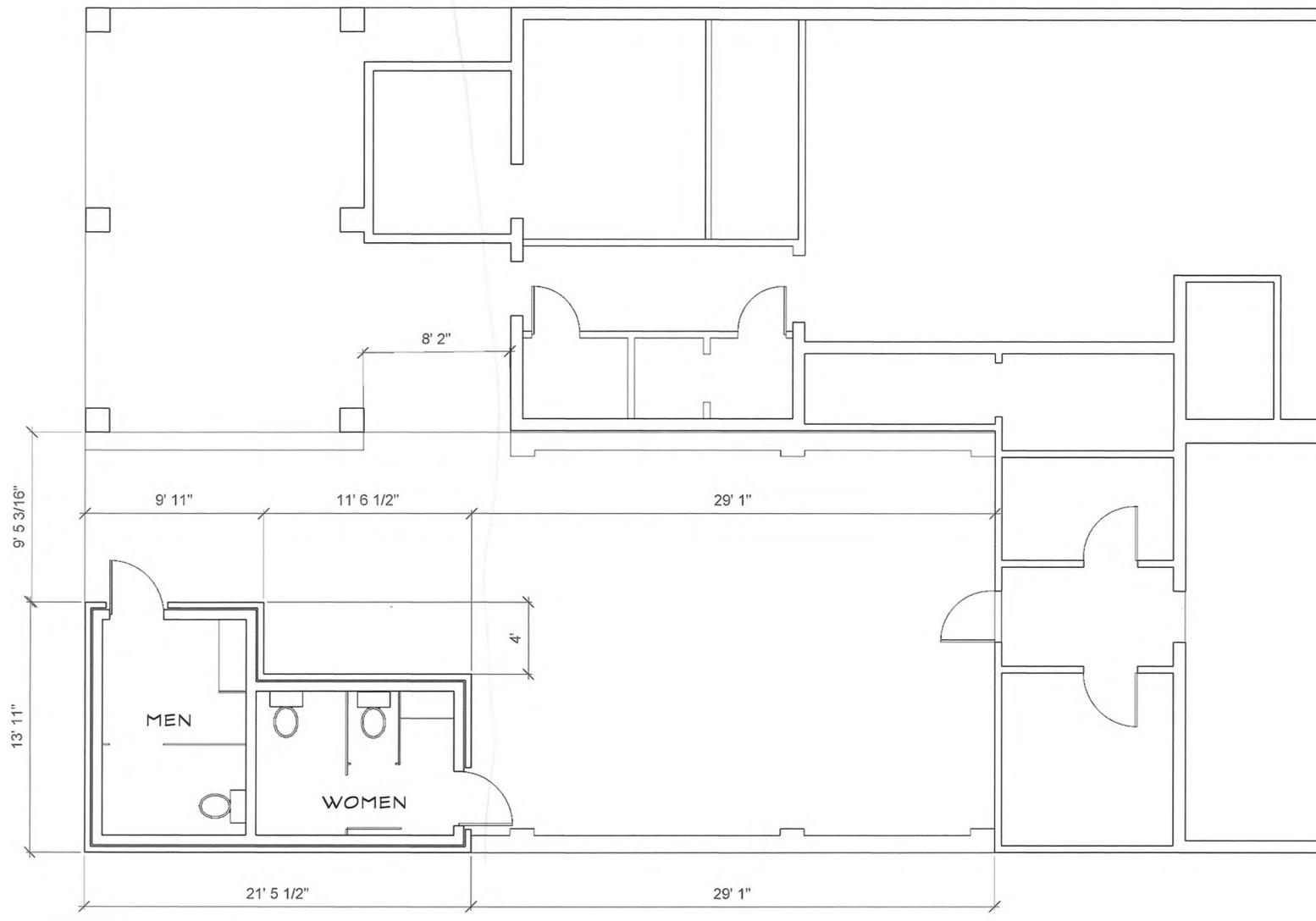
Registration Renewal Date: October 31



The Texas Board of Architectural  
Examiners has jurisdiction over complaints  
regarding the professional practices of  
all persons registered as architects in  
Texas. P.O. Box 12137, Austin, TX 78711  
512.305.9000 www.tbaa.state.tx.us

DATE: DRAWING #

A-001



**1. FLOOR PLAN**  
SCALE: 1/4" = 1'-0"



ashandassociates.net

142  
JACKSON LN.  
SAN MARCOS  
TEXAS  
78666  
512.392.1719

ARCHITECTURE  
ENGINEERING  
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NOTES - REVISIONS / REMARKS

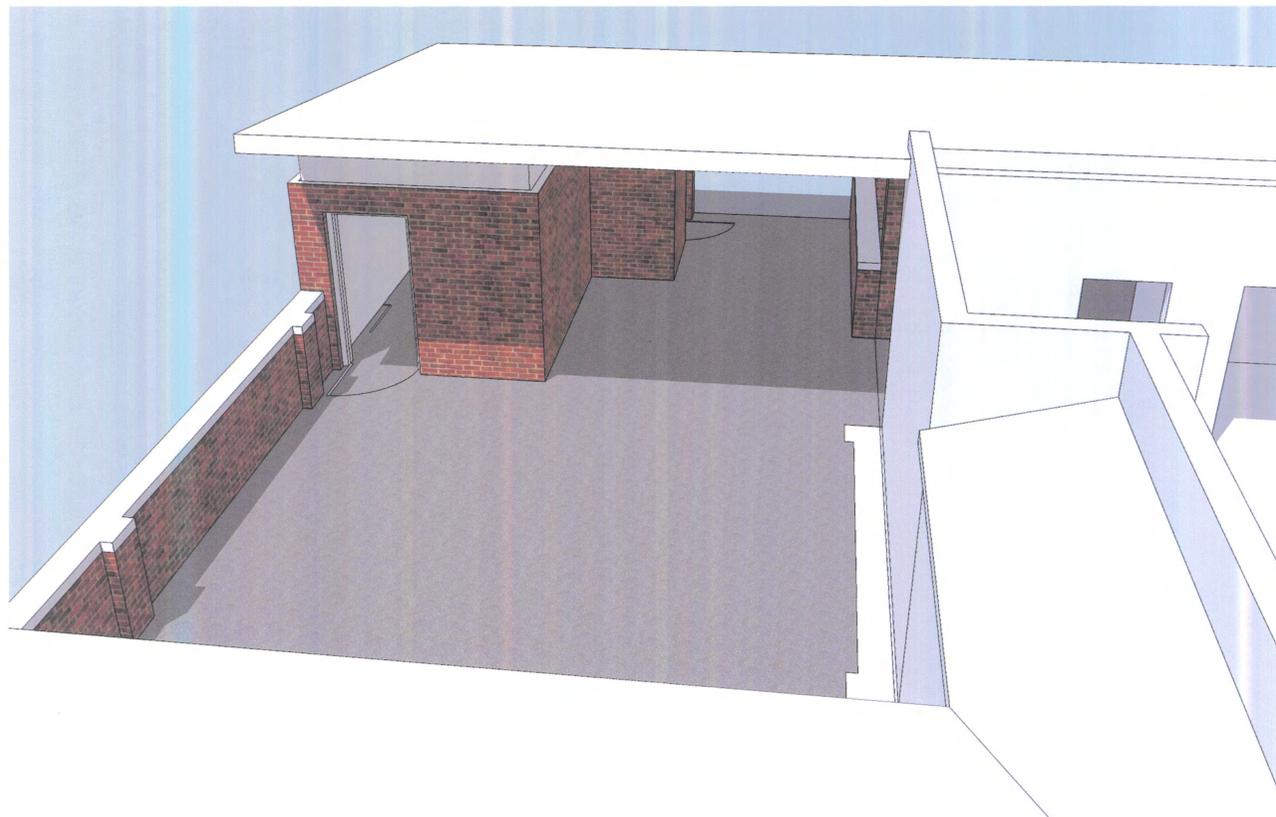
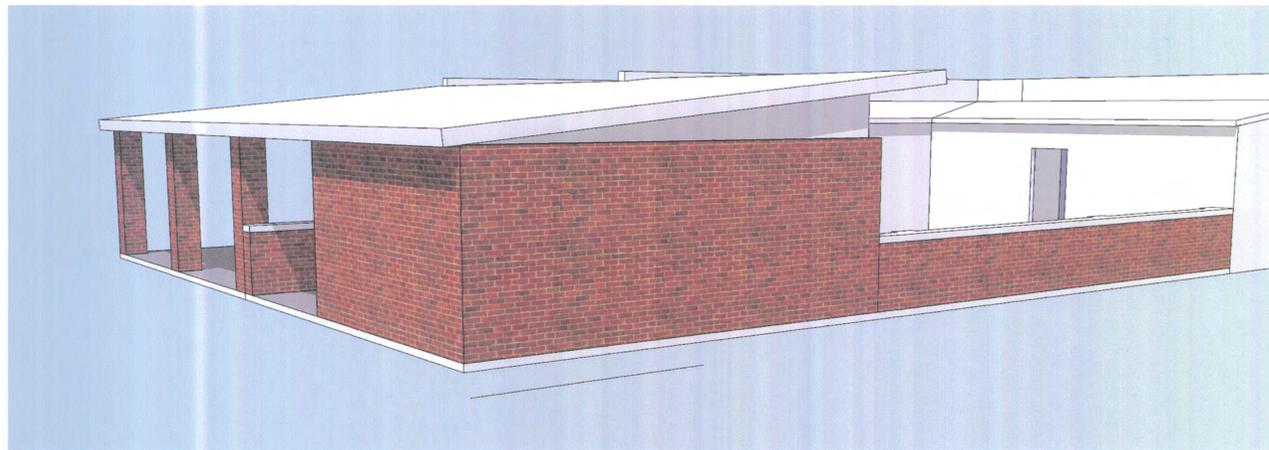
Registration Renewal Date: October 31



The Texas Board of Architectural Examiners has jurisdiction and complete authority over the professional practices of persons registered as architects in Texas. P.O. Box 12337, Austin TX 78711 512.305.5000 www.tbaa.org

DATE DRAWING #

A - 002





CUP-\_\_\_\_-\_\_\_\_

## City of San Marcos

RESTRICTED OR UNRESTRICTED  
CONDITIONAL USE PERMIT APPLICATIONTo Allow On-Premise Consumption of Alcoholic Beverages  
for Businesses within the Central Business Area Zoning District

## LICENSE INFORMATION

Trade Name of Business: CHANCES 'R'Application is filed by:  Individual  Partnership  Corporation  Other: \_\_\_\_\_Name of Individual or Entity: Johnny L. Finch Phone Number: 512-557-4624Mailing Address: P.O. Box 418 San Marcos, TXEmail Address: finchmech@yahoo.comType of Permit Requested:  Mixed Beverage  Beer & Wine  Other: \_\_\_\_\_

## PROPERTY

Street Address: 142 South C135Legal Description: Lot Part of 2 Block 13 Subdivision Original TownshipTax ID Number: RProperty Owner's Name: Johnny L. Finch Phone Number: 512-557-4624Address: P.O. Box 112 San Marcos, TX 78667

## BUSINESS DETAILS

Primary Business Use:  Restaurant (Restricted)  Bar (Unrestricted)  Other: \_\_\_\_\_Hours of Operation: 3 P.M. - 2 A.M.

Type of Entertainment Facilities: \_\_\_\_\_

Indoor Fixed Seats: 70 Outdoor Fixed Seats: \_\_\_\_\_Gross Floor Area Including Outdoor Above-ground Decks: 2,000 Square FeetNumber of Off-Street Parking Spaces Provided: 14Located more than 300 feet from churches, public schools, hospitals, low density residential?  Yes 

No

## APPLICATION FOR CITY OF SAN MARCOS CONDITIONAL USE PERMIT-TABC

**CUP PERMIT HISTORY** *Check all that apply*

- New request, no existing TABC CUP Permit at this location
- Change to existing TABC Permit. Nature of Change: outdoor area.

---

- Renewal
- Change in name of license holder of existing business at same location
- Change in name of existing business at this location

**SUBMITTAL REQUIREMENTS**

- **Beer and Wine Permit:** \$600 Application fee + \$10.00 Technology Fee (non-refundable)
- **Mixed Beverage Permit:** \$600 Application fee + \$10.00 Technology Fee (non-refundable)
- **Change to Existing Permit/Renewal:** \$300.00 Application fee + \$10.00 Technology Fee (non-refundable)
- **Site Plan drawn to scale,** preferably on paper no larger than 11" x 17", showing dimensions of property, locations and square footage of building(s), interior layout showing dimensions of tables, bar area, etc., number of off-street paved parking spaces, and fences buffering residential uses.
- **Copy of State TABC License Application**

*I certify that this information is complete and accurate. I understand that I or a representative should be present at all meetings regarding this application.*

- I am the property owner of record; or
- I have attached authorization to represent the owner, organization, or business in this application.

J/LF  
Applicant's Signature

Printed Name: Johnny L. Finch

Date: 5/29/14

*To be completed by Staff:*

Meeting Date: \_\_\_\_\_ Application Deadline: \_\_\_\_\_

Accepted By: \_\_\_\_\_ Date: \_\_\_\_\_



## Legislation Text

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**File #:** CUP-14-25, **Version:** 1

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**AGENDA CAPTION:**

CUP-14-25 (Rooftop on the Square) Hold a public hearing and consider a request by Brandon Cash on behalf of Rooftop on the Square for a renewal of an existing Conditional Use Permit to allow for the continued sale of mixed beverages for on-site consumption at 126 S Guadalupe Street

**Meeting date:** 7/22/2014

**Department:** Development Services Department

**Funds Required:** NA

**Account Number:** NA

**Funds Available:** NA

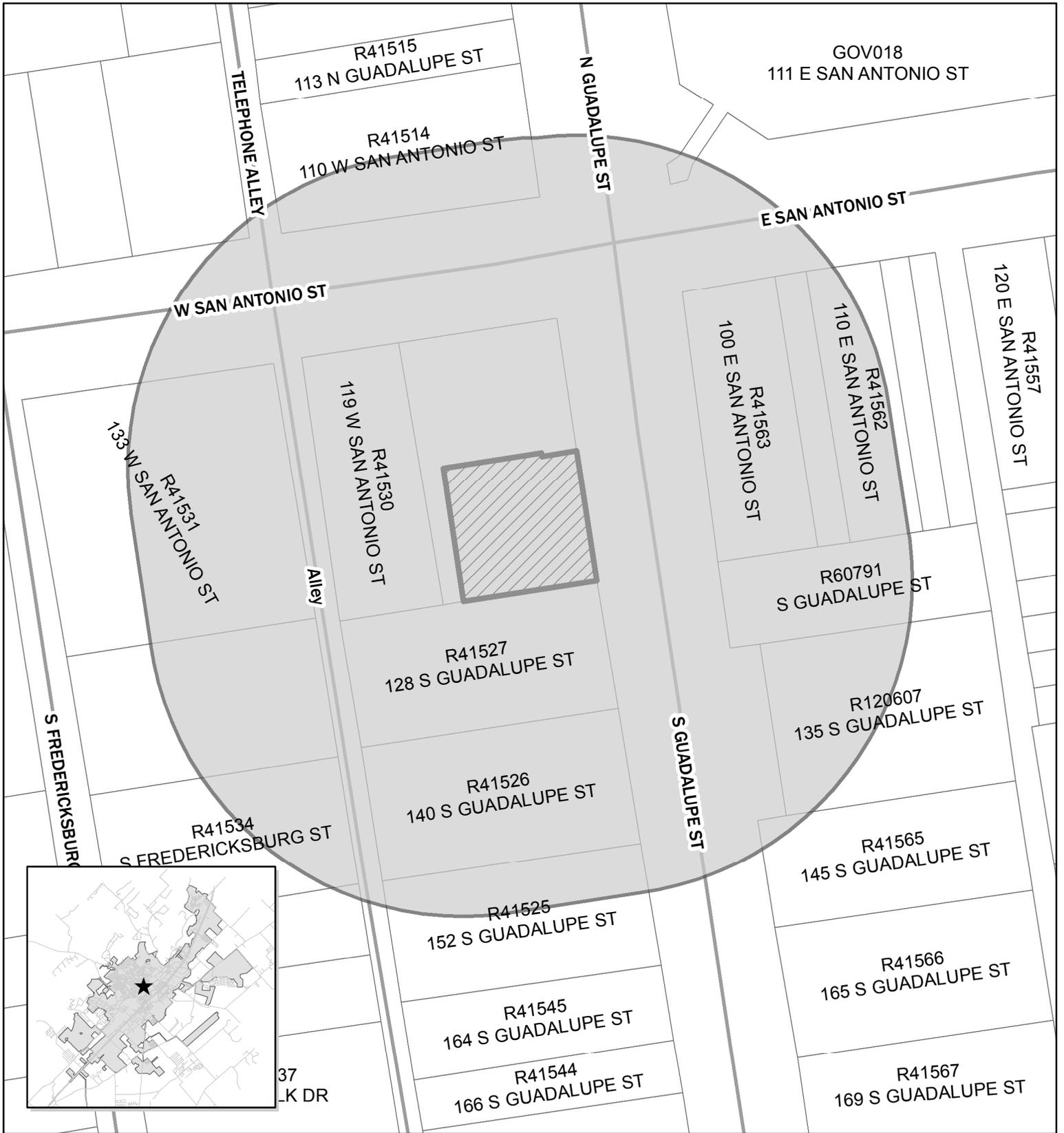
**Account Name:** NA

**CITY COUNCIL GOAL:** Community Wellness/Strengthening the Middle Class

**BACKGROUND:** The Rooftop on the Square is an adaptive reuse of an abandoned car detail facility which opened in May 2012. They were granted a six month Restricted Conditional Use permit on February 11, 2014. The applicant wishes to renew the existing Restricted Conditional Use Permit for this business to continue to serve mixed beverages for on premise consumption.

Staff recommends **approval** of the Restricted Conditional Use Permit with the following conditions:

- 1. The permit shall be valid for one (1) year provided standards are met and subject to the point system,**
- 2. All requirements of Section 4.3.4.2 for Conditional Use Permits must be met,**
- 3. No live music and no speakers are permitted in the outdoor patio areas,**
- 4. All exterior doors must be maintained in an automatically assisted closed position**



**CUP-14-25**  
**Rooftop on the Square**  
**126 S Guadalupe**  
**Map Date: 7/8/2014**

-  Site Location
-  Notification Buffer (200 feet)



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

# CUP-14-25

## Conditional Use Permit Renewal

### The Rooftop on the Square

### 126 S. Guadalupe



#### Applicant Information:

**Applicant:** Brandon Cash

**Mailing Address:** 126 S. Guadalupe  
San Marcos, TX 78666

**Property Owner:** Same

**Applicant Request:** Renewal of an existing Restricted Conditional Use Permit allowing mixed-beverages at 126 S. Guadalupe.

**Public Hearing Notice:** Public hearing notification was mailed on July 11, 2014.

**Response:** None as of the date of this report.

#### Subject Property:

**Location:** 126 S. Guadalupe

**Legal Description:** Original Town of San Marcos, Block 12, Lot 4A, 0.166 acres.

**Frontage On:** S. Guadalupe

**Neighborhood:** Downtown

**Existing Zoning:** "T-5" – Urban Center

**Intensity Zone:** High Intensity

**Utilities:** Sufficient

**Existing Use of Property:** Restaurant/Bar

#### Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
<b>N of property</b>	T-5	Commercial
<b>S of property</b>	T-5	Commercial
<b>E of property</b>	T-5	Commercial
<b>W of property</b>	T-5	Commercial

### **Code Requirements:**

A Conditional Use Permit (CUP) allows the establishment of uses which may be suitable only in certain locations or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are generally compatible with permitted uses, but require individual review and imposition of conditions in order to ensure the appropriateness of the use at a particular location.

A business applying for on-premise consumption of alcohol must not be within 300 feet of a church, school, hospital, or a residence located in a low density residential zoning district. This location **does** meet the distance requirements.

CUPs issued for on-premise consumption of alcohol make the business subject to the code standards and the penalty point system for violations (Section 4.3.4.2). Mr. Cash has requested a Restricted Conditional Use Permit, to be known as a Restaurant Permit, which requires that the business must comply with the following standards at all times. (Section 4.3.4.2):

- a) Restaurant permits are valid for three years from the date of issuance. Each business holding a restaurant permit must apply for and obtain a renewal permit every three years.
- b) A business holding a restaurant permit must become operational and open to the public within one year of issuance or the permit shall expire.
- c) The business must have a kitchen and food storage facilities of sufficient size to enable food preparation. The kitchen must be equipped with, and must utilize, a commercial grill, griddle, fryer, oven, or similar heavy food preparation equipment.
- d) The business must apply for, obtain and maintain a food establishment permit in accordance with chapter 18 of the City Code.
- e) The business must serve meals to customers during at least two meal periods each day the business is open. A meal must consist of at least one entree, such as a meat serving, a pasta dish, pizza, a sandwich or similar food in a serving that serves as a main course for a meal. At least three entrees must be available during each meal period. A meal period means a period of at least four hours.
- f) The business must be used, maintained, advertised and held out to the public as a place where meals are prepared and served.

## **Background:**

The Rooftop on the Square is an adaptive reuse of an abandoned car detail facility which opened in May 2012. The applicant wishes to renew the existing restricted conditional use permit for this business to continue to serve mixed beverages for on premise consumption. The establishment contains 48 indoor and 80 outdoor fixed seats and the gross floor area is approximately 5,000 square feet. The hours of operation are 11 am – 2am. No off-street parking is required due to the location within the CBA.

The following is a summary of the history of events surrounding this establishment:

**February 28, 2012:** Restricted Conditional Use Permit approved for 1 year with conditions  
1) Subject to points system; 2) no live music; 3) no outside loud speakers

**June 15, 2012:** Enforcement letter delivered – not in compliance with restaurant requirements of CUP  
• Certificate of Occupancy Revoked in the afternoon

**June 15, 2012:** Fire Department citation for operating without a Certificate of Occupancy in the evening

**June 19, 2012:** Establishment showed proof of meeting restaurant requirements  
• Certificate of Occupancy reinstated and establishment was allowed to reopen

**January 12, 2013:** Violation of Sec.4.3.4.2(b)3.k. Knowingly serving alcoholic beverages to clients who are intoxicated (*2 points were issued for this violation*)

**February 26, 2013:** Restricted Conditional Use Permit approved for three months with conditions  
1) Subject to points system; 2) subject to all requirements of Section 4.3.4.2 of the Land Development Code; 3) no live music; 4) No speakers in the outdoor and patio areas highlighted in Exhibit A

**April 26, 2013:** Violation of Sec.4.3.4.2(b)3.k. Knowingly serving alcoholic beverages to clients who are intoxicated (*2 points were issued for this violation*)

**May 14, 2013:** Restricted Conditional Use Permit approved for three months with conditions  
1) The permit shall be valid for a period of three (3) months; 2) subject to all requirements of Section 4.3.4.2 of the Land Development Code; 3) no live music and no speakers in the outdoor and patio areas highlighted in Exhibit A; 4) All exterior doors must be maintained in an automatically assisted closed position; 5) If any points are issued to the establishment during the approval period, the revocation process will be initiated.

**August 13, 2013:** Restricted Conditional Use Permit approved for six months with conditions  
1) The permit shall be valid for a period of six (6) months; 2) subject to all requirements of Section 4.3.4.2 of the Land Development Code; 3) no live music and no speakers in the outdoor and patio areas highlighted in Exhibit A; 4) All exterior doors must be maintained in an automatically assisted closed position;

**February 11, 2014:** Restricted Conditional Use Permit approved for six months with conditions  
1) The permit shall be valid for a period of six (6) months; 2) subject to all requirements of Section 4.3.4.2 of the Land Development Code; 3) no live music and no speakers in the outdoor and patio areas highlighted in Exhibit A; 4) All exterior doors must be maintained in an automatically assisted closed position;

Since May of 2013, the Rooftop on the Square has applied for three Conditional Use Permits, which have been approved with lengths varying between three and six months. There have been no recorded violations and no points have been issued in this time. Due to the improved record, the applicant has expressed hope that the Commission will grant the use of outdoor speakers, particularly for their outdoor television.

The applicant also stated that they are interested in expanding their menu to include more options, as well as opening their business earlier in the day to allow for a breakfast/brunch crowd. The applicant did state that these plans are in the preliminary stages and no details have been finalized, but it was stated that items would not be removed from the menu, and that any menu change would result in more variety.

**Planning Department Analysis**

Staff has reviewed the request for compliance with the Land Development Code and it appears that, subject to placing reasonable restrictions on noise as discussed below, the request is consistent with the policies and the general intent of the zoning district.

In addition to the minimum requirements of section 4.3.4.2 of the LDC, staff has considered the impact of the proposed conditional use on surrounding properties under the section 1.5.7.5 of the LDC. Staff finds that the request with the previously approved conditions does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic. However, concern about or opposition to live music and/or speakers has been expressed during public hearings for previous CUP renewals. As noted in the history outlined on the previous page, the Commission has imposed CUP conditions to mitigate the adverse impacts of noise on surrounding properties. Other than noise, no other specific adverse impacts were identified at this time. Given the history regarding the establishment, staff believes a one year renewal would be appropriate so that conditions may be monitored. Staff has not received any citizen comments or comments from other departments regarding this establishment.

In order to monitor permits for on-premise consumption of alcohol, the Planning Department’s standard recommendation is as follows:

- Initial approval for 1 year;
- Renewal for 3 years;
  - Restricted Conditional Use Permits must be renewed every three (3) years.
  - Restricted Conditional Use Permits may be renewed administratively if the applicant has complied with all of the provisions of the Land Development Code and the permit issuance.

**Staff recommends approval of the Restricted Conditional Use Permit with the following conditions:**

- 1. The permit shall be valid for one (1) year provided standards are met and subject to the point system,**
- 2. All requirements of Section 4.3.4.2 for Conditional Use Permits must be met,**
- 3. No live music and no speakers are permitted in the outdoor patio areas**
- 4. All exterior doors must be maintained in an automatically assisted closed position**

Planning Department Recommendation:	
	Approve as submitted
<b>X</b>	Approve with conditions as noted
	Alternative
	Denial
	Postpone

**Commission's Responsibility:**

The Commission is required to hold a public hearing and receive comments regarding the proposed Conditional Use Permit. After considering public input, the Commission is charged with making a decision on the Permit. Commission approval is discretionary. The applicant, or any other aggrieved person, may submit a written appeal of the decision to the Planning Department within 10 working days of notification of the Commission's action, and the appeal shall be heard by the City Council.

The Commission's decision is discretionary. Provided the request meets the minimum requirements of section 4.3.4.2 of the LDC, the Commission shall also evaluate the impact of the proposed conditional use on surrounding properties under section 1.5.7.5 of the LDC, by considering the extent to which the use:

- is consistent with the policies of the Master Plan and the general intent of the zoning district;
- is compatible with the character and integrity of adjacent developments and neighborhoods;
- includes improvements to mitigate development-related adverse impacts; and
- does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic in the neighborhood.

Conditions may be attached to the CUP that the Commission deems necessary to mitigate adverse effects of the proposed use and to carry out the intent of the Code.

**Prepared by:**

Will Parrish

Planning Technician

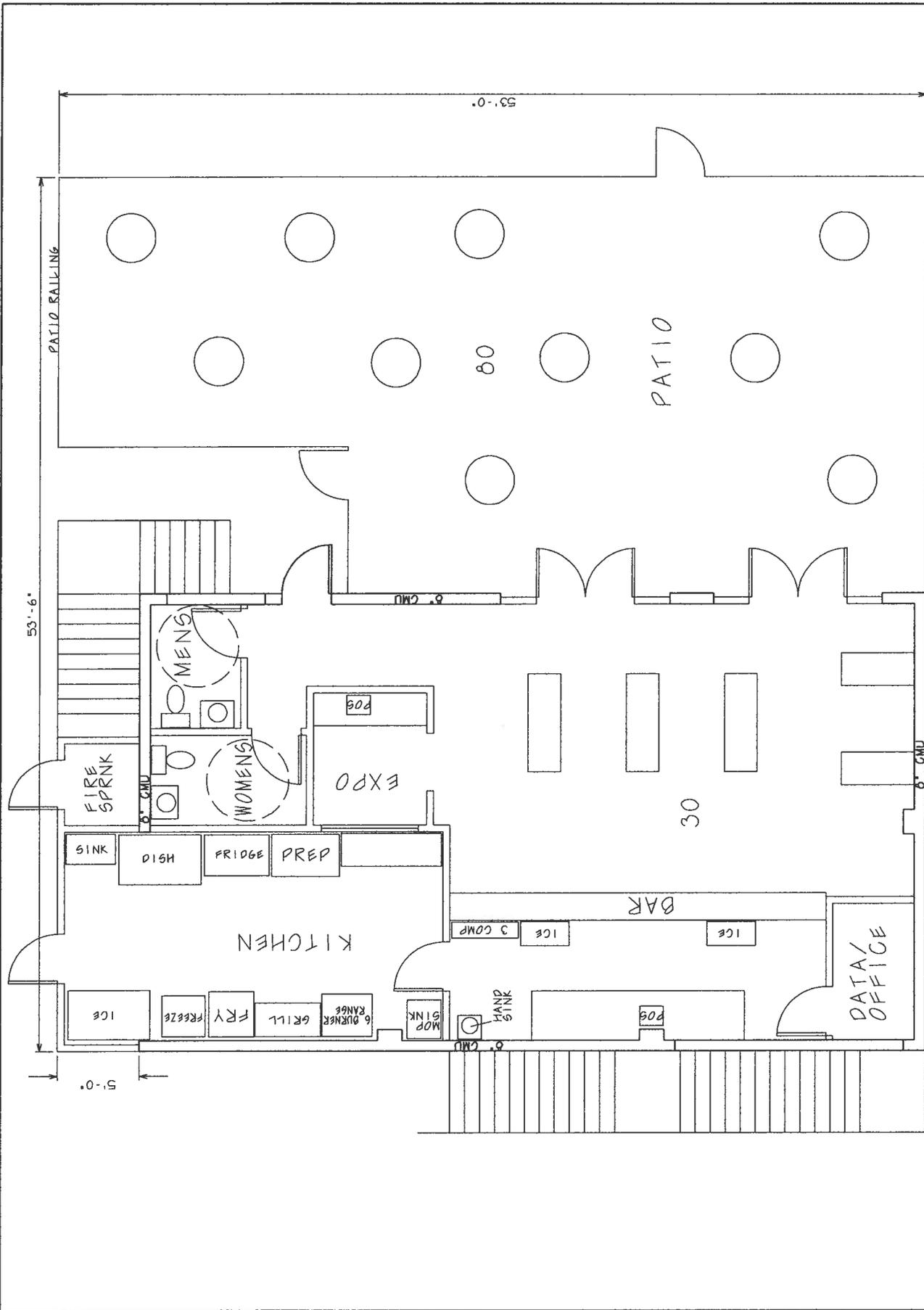
7/15/2014

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**Name**

**Title**

**Date**

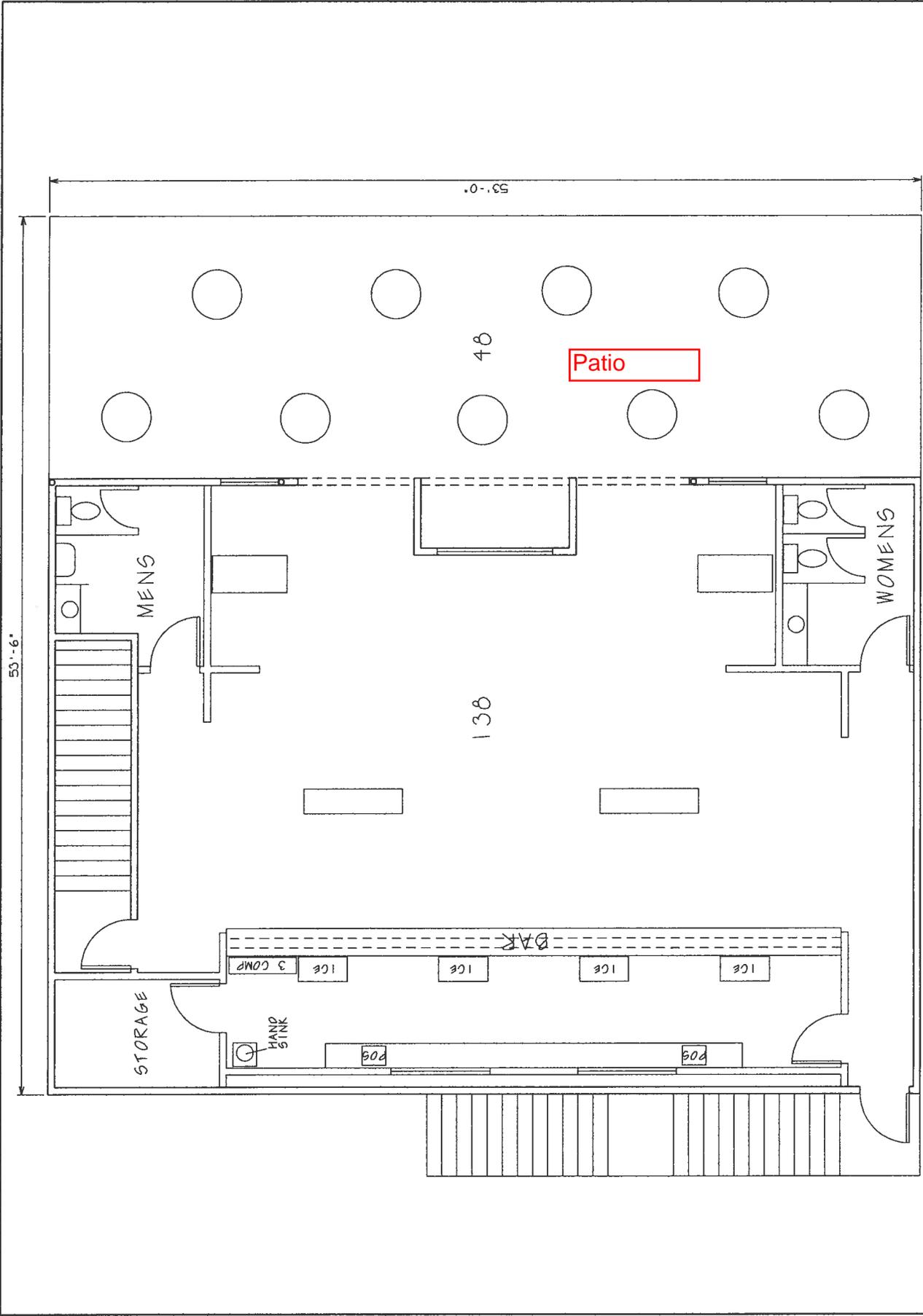


PROJECT: THE ROOFTOP ON THE SQUARE  
 SCALE: 1/8" = 1'-0"  
 DRAWING: FIRST FLOORPLAN  
 SHEET: A-103

ADDRESS: 126 S. GUADALUPE  
 SAN MARCOS, TX 78666

CONTRACTOR:  
 OWNERS:

NOTES:



PROJECT: THE ROOFTOP ON THE SQUARE  
 SCALE: 1/8" = 1'-0"  
 DRAWING: SECOND FLOORPLAN  
 SHEET: A-104

ADDRESS: 126 S. GUADALUPE  
 SAN MARCOS, TX 78666  
 CONTRACTOR:  
 OWNERS:  
 NOTES:

CUP-141-25

**City of San Marcos**  
**RESTRICTED OR UNRESTRICTED**  
**CONDITIONAL USE PERMIT APPLICATION**  
**To Allow On-Premise Consumption of Alcoholic Beverages**  
**for Businesses within the Central Business Area Zoning District**

**LICENSE INFORMATION**  
 Trade Name of Business: Rooftop on the Square  
 Application is filed by:  Individual  Partnership  Corporation  Other: \_\_\_\_\_  
 Name of Individual or Entity: Brandon Cash Phone Number: 512-296-8211  
 Mailing Address: 126 S. Guadalupe ST San Marcos TX 78666  
 Email Address: ~~cash8211@gmail.com~~ cash8211@gmail.com  
 Type of Permit Requested:  Mixed Beverage  Beer & Wine  Other: \_\_\_\_\_

**PROPERTY**  
 Street Address: 126 S Guadalupe ST San Marcos TX 78666  
 Legal Description: Lot 4A Block 12 Subdivision \_\_\_\_\_  
 Tax ID Number: R  
 Property Owner's Name: Brandon Cash Phone Number: 512-246-8211  
 Address: 126 S Guadalupe ST 78666

**BUSINESS DETAILS**  
 Primary Business Use:  Restaurant (Restricted)  Bar (Unrestricted)  Other: \_\_\_\_\_  
 Hours of Operation: 11am - 2am  
 Type of Entertainment Facilities: No Live Music  
 Indoor Fixed Seats: 45 Outdoor Fixed Seats: 80  
 Gross Floor Area Including Outdoor Above-ground Decks: 5,000 Square Feet  
 Number of Off-Street Parking Spaces Provided: 0  
 Located more than 300 feet from churches, public schools, hospitals, low density residential?  Yes  No

**APPLICATION FOR CITY OF SAN MARCOS CONDITIONAL USE PERMIT-TABC**

**CUP PERMIT HISTORY** *Check all that apply*

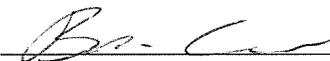
- New request**, no existing TABC CUP Permit at this location
- Change** to existing TABC Permit. Nature of Change: \_\_\_\_\_
- Renewal**
- Change in name of license holder** of existing business at same location
- Change in name of existing business** at this location

**SUBMITTAL REQUIREMENTS**

- Beer and Wine Permit: **\$600 Application fee + \$10.00 Technology Fee** (non-refundable)
- Mixed Beverage Permit: **\$600 Application fee + \$10.00 Technology Fee** (non-refundable)
- Change to Existing Permit/Renewal: **\$300.00 Application fee + \$10.00 Technology Fee** (non-refundable)
- **Site Plan** drawn to scale, preferably on paper no larger than 11" x 17", showing dimensions of property, locations and square footage of building(s), interior layout showing dimensions of tables, bar area, etc., number of off-street paved parking spaces, and fences buffering residential uses.
- **Copy of State TABC License Application**

*I certify that this information is complete and accurate. I understand that I or a representative should be present at all meetings regarding this application.*

- I am the property owner of record; or*
- I have attached authorization to represent the owner, organization, or business in this application.*

  
\_\_\_\_\_  
**Applicant's Signature**

**Printed Name:** Brandon CUSH

**Date:** 6/18/14

*To be completed by Staff:*

Meeting Date: \_\_\_\_\_

Application Deadline: \_\_\_\_\_

Accepted By: \_\_\_\_\_

Date: \_\_\_\_\_



## Restricted or Unrestricted Conditional Use Permit Application Checklist For Businesses within the Central Business Area

Provided by applicant as of date of submittal		By staff as of date of completeness review	
Completed	Required Item	Staff Verification	Staff Comments
<input type="checkbox"/>	A pre-application conference with staff is recommended	<input type="checkbox"/>	
<input type="checkbox"/>	A completed application for Conditional Use Permit and required fees. * (see note below)	<input type="checkbox"/>	
<input type="checkbox"/>	A site plan <i>drawn to scale</i> illustrating the locations of all structures on the subject property and on adjoining properties. * (see note below)	<input type="checkbox"/>	
<input type="checkbox"/>	Interior layout showing all proposed seating; kitchen and bar areas; and restroom facilities	<input type="checkbox"/>	
<input type="checkbox"/>	All information and illustrations necessary to show the nature and effect of the proposed variations to the standards of the zoning district.	<input type="checkbox"/>	
<input type="checkbox"/>	Authorization to represent the property owner, if applicant is not the owner	<input type="checkbox"/>	
<b>Any of the following pieces of information as requested by the Director of Development Services :</b> *(see note below)			
<input type="checkbox"/>	Landscaping and/or fencing of yards and setback areas and proposed changes	<input type="checkbox"/>	
<input type="checkbox"/>	Design of ingress and egress	<input type="checkbox"/>	
<input type="checkbox"/>	Off-street parking and loading facilities	<input type="checkbox"/>	
<input type="checkbox"/>	Height of all structures	<input type="checkbox"/>	
<input type="checkbox"/>	Proposed uses	<input type="checkbox"/>	
<input type="checkbox"/>	The location and types of all signs	<input type="checkbox"/>	
<input type="checkbox"/>	Hours of operation	<input type="checkbox"/>	
<input type="checkbox"/>	Impervious cover or drainage issues or impacts	<input type="checkbox"/>	

\* For renewals, staff may accept a written statement that no changes have been made to these items if copies are available on file.

I hereby certify and attest that the application is complete and all information above is complete and hereby submitted for review.

Signed: 

Date: 6/18/14

Print Name: Nicholas Talamantes

Engineer    Surveyor    Architect/Planner    Owner    Agent: \_\_\_\_\_



# On-Premise Prequalification Packet

L-ON (10/2011)

Please complete this Prequalification Packet with information concerning your proposed business location for which you are applying to sell/serve alcoholic beverages. This information will be used to obtain your prequalification to hold a license/permit. You will submit this information to the proper governmental entities for certification that your proposed location is legal for the type of license/permit for which you are applying. Permit applicants will also provide this packet to their local newspaper for certification that you have published the required notice.

Please immediately contact your local TABC office to determine if you must post a 60 Day Sign at your proposed location, and for more information.

## LOCATION INFORMATION

**Type of On-Premise License/Permit**

<input type="checkbox"/> BG Wine and Beer Retailer's Permit	<input checked="" type="checkbox"/> LB Mixed Beverage Late Hours Permit
<input type="checkbox"/> BE Beer Retail Dealer's On-Premise License	<input type="checkbox"/> MI Minibar Permit
<input type="checkbox"/> BL Retail Dealer's On-Premise Late Hours License	<input checked="" type="checkbox"/> CB Caterer's Permit
<input type="checkbox"/> BP Brewpub License	<input type="checkbox"/> FB Food and Beverage Certificate
<input type="checkbox"/> V Wine & Beer Retailer's Permit for Excursion Boats	<input type="checkbox"/> PE Beverage Cartage Permit
<input type="checkbox"/> Y Wine & Beer Retailer's Permit for Railway Dining Car	<input type="checkbox"/> RM Mixed Beverage Restaurant Permit with FB
<input checked="" type="checkbox"/> MB Mixed Beverage Permit	

**Indicate Primary Business at this Location**

<input checked="" type="checkbox"/> Restaurant	<input type="checkbox"/> Sporting Arena, Civic Center, Hotel
<input checked="" type="checkbox"/> Bar	<input type="checkbox"/> Miscellaneous _____
<input type="checkbox"/> Sexually Oriented	

Trade Name of Location  
THE ROOFTOP ON THE SQUARE

Location Address  
126 S. GUADALUPE

City <span style="font-size: 1.2em;">SAN MARCOS</span>	County <span style="font-size: 1.2em;">HAYES</span>	State <span style="font-size: 1.2em;">TX</span>	Zip Code <span style="font-size: 1.2em;">78666 -</span>
-----------------------------------------------------------	--------------------------------------------------------	----------------------------------------------------	------------------------------------------------------------

Mailing Address <span style="font-size: 1.2em;">300 N. LAMAR BLVD. #205</span>	City <span style="font-size: 1.2em;">AUSTIN</span>	State <span style="font-size: 1.2em;">TX</span>	Zip Code <span style="font-size: 1.2em;">78703 -</span>
-----------------------------------------------------------------------------------	-------------------------------------------------------	----------------------------------------------------	------------------------------------------------------------

Business Phone No. <span style="font-size: 1.2em;">(512) 296-8211</span>	Alternate Phone No. <span style="font-size: 1.2em;">(512) 296-8211</span>	E-mail Address <span style="font-size: 1.2em;">BCASHCONSTRUCTION@GMAIL.COM</span>
-----------------------------------------------------------------------------	------------------------------------------------------------------------------	--------------------------------------------------------------------------------------

## OWNER INFORMATION

**Type of Owner**

<input type="checkbox"/> Individual	<input type="checkbox"/> Corporation	<input type="checkbox"/> City/County/University
<input type="checkbox"/> Partnership	<input checked="" type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Other _____
<input type="checkbox"/> Limited Partnership	<input type="checkbox"/> Joint Venture	
<input type="checkbox"/> Limited Liability Partnership	<input type="checkbox"/> Trust	

Entity/Applicant

**If Applicant Is/Who Must Be Listed Below (attach L-OIC if additional space is needed):**

Individual/Individual Owner	Limited Liability Company/All Officers or Managers
Partnership/All Partners	Joint Venture/Venturers
Limited Partnership/All General Partners	Trust/Trustee(s)
Corporation/All Officers	City, County, University/Official

Last Name <span style="font-size: 1.2em;">CASH</span>	First Name <span style="font-size: 1.2em;">BRANDON</span>	MI <span style="font-size: 1.2em;">S</span>	Title <span style="font-size: 1.2em;">MANAGER</span>
Last Name <span style="font-size: 1.2em;">WITHERS</span>	First Name <span style="font-size: 1.2em;">SCOTT</span>	MI	Title <span style="font-size: 1.2em;">MEMBER</span>
Last Name	First Name	MI	Title

## MEASUREMENT INFORMATION

Will your business be located within 300 feet of a church or public hospital?  Yes  No

**NOTE:** For churches or public hospitals measure from front door to front door, along the property lines of the street fronts and in a direct line across intersections.

Will your business be located within 300 feet of any private/public school, day care center or child care facility?  Yes  No

If "YES," are the facilities located on different floors or stories of the building?  Yes  No

**NOTE:** For private/public schools, day care centers and child care facilities measure in a direct line from the nearest property line of the school, day care center or child care facility to the nearest property line of the place of business, and in a direct line across intersections.

**NOTE:** For multistory building: businesses may be within 300 feet of a day care center or child care facility as long as the facilities are located on different floors of the building.

**NOTE:** If located on or above the fifth story of a multistory building: measure in a direct line from the property line of the private/public school to property line of your place of business in a direct line across intersections vertically up the building at the property line to the base of the floor on which your business is located.

Will your business be located within 1,000 feet of a private school?  Yes  No

Will your business be located within 1,000 feet of a public school?  Yes  No

## 60-DAY SIGN INFORMATION

If you were required to post a 60-day sign as required by Section 11.391 or 61.381 of the Texas Alcoholic Beverage Code at this location; what exact date was the required sign posted at the location?

Exact Date (mm/dd/yyyy)

/ /

### WARNING AND SIGNATURE

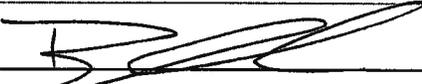
**If Applicant Is/Who Must Sign**

Individual/Individual Owner	Corporation/Officer
Partnership/Partner	Limited Liability Company/ Officer or Manager
Limited Partnership/General Partner	

**WARNING:** Section 101.69 of the Texas Alcoholic Beverage Code states: "...a person who makes a false statement or false representation in an application for a permit or license or in a statement, report, or other instrument to be filed with the Commission and required to be sworn commits an offense punishable by imprisonment in the penitentiary for not less than 2 nor more than 10 years."

**BY SIGNING YOU ARE SWEARING TO ALL INFORMATION AND ATTACHMENTS TO THIS PACKET.**

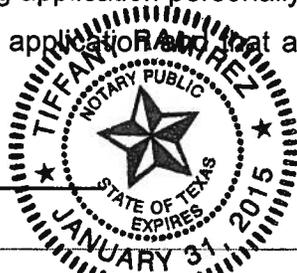
PRINT NAME BRANDON CASH

SIGN HERE 

TITLE MANAGER

Before me, the undersigned authority, on this 1 day of December, 2011, the person whose name is signed to the foregoing application personally appeared and, duly sworn by me, states under oath that he or she has read the said application and that all the facts therein set forth are true and correct.

SIGN HERE   
NOTARY PUBLIC



SEAL

**CERTIFICATE OF CITY SECRETARY (FOR MB, RM, BE, BG, V, & Y)**

CHECK HERE IF NOT IN CITY LIMITS

I hereby certify on this 1 day of December, 2011, that the location for which the license/permit is sought is inside the boundaries of this city or town, in a "wet" area for such license/permit, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages.

SIGN HERE Samuel Pitts San Marcos, TEXAS  
City Secretary/Clerk

SEAL

**If location can not be certified above, please complete the following:**

I hereby certify on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that the location is prohibited by Charter or Ordinance No. \_\_\_\_\_, in reference to the sale of alcoholic beverages.

SIGN HERE \_\_\_\_\_, TEXAS  
City Secretary/Clerk

SEAL

**CERTIFICATE OF CITY SECRETARY FOR LATE HOURS LICENSE/PERMIT**

CHECK HERE IF NOT IN CITY LIMITS

I hereby certify on this 1 day of December, 2011, that one of the below is correct:

- The governing body of this city has by ordinance authorized the sale of **mixed beverages** between midnight and 2:00 A.M.; or
- The governing body of this city has by ordinance authorized the sale of **beer** between midnight and \_\_\_\_\_ A.M.; or
- The population of the city where premises are located was 500,000 or more according to the 22<sup>nd</sup> Decennial Census of the United States as released by the Bureau of the Census on March 12, 2001; or
- The population of the city where premises are located was 800,000 or more according to the last Federal Census (2010).

SIGN HERE Samuel Pitts San Marcos, TEXAS  
City Secretary/Clerk

SEAL

**CERTIFICATE OF COUNTY CLERK (FOR MB, RM & BE)**

I hereby certify on this 1<sup>st</sup> day of December, 2011, that the location for which the license/permit is sought is in a "wet" area for such license/permit, and is not prohibited by any valid order of the Commissioner's Court.

SIGN HERE Liz Q Gonzalez BY: Paul Hays Hays COUNTY  
County Clerk DEPUTY

SEAL

**CERTIFICATE OF COUNTY CLERK (FOR BG, V & Y)**

I hereby certify on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that the location for which the license/permit is sought is in a "wet" area and is not prohibited by any valid order of the Commissioner's Court for a Wine & Beer Retailer's Permit.

**Most current election for given location was held for:**

- legal sale of all alcoholic beverages for off-premise consumption
- legal sale of all alcoholic beverages
- legal sale of all alcoholic beverages except mixed beverages
- legal sale of all alcoholic beverages including mixed beverages
- legal sale of mixed beverages
- legal sale of mixed beverages in restaurants by food and beverage certificate holders
- legal sale of wine on the premises of a holder of a winery permit
- legal sale of wine/beer (17%) on-premise or wine/beer off-premise **AFTER** Sept. 1, 1999
- legal sale of wine/beer (14%) on-premise or wine/beer off-premise **BEFORE** Sept. 1, 1999

SIGN HERE \_\_\_\_\_ COUNTY  
County Clerk

SEAL

## CERTIFICATE OF COUNTY CLERK FOR LATE HOURS LICENSE/PERMIT

I hereby certify on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that one of the below are correct:

- The Commissioner's Court of the county has by order authorized the sale of **mixed beverages** between midnight and 2:00 A.M.; or
- The Commissioner's Court of the county has by order authorized the sale of **beer** between midnight and \_\_\_\_\_ A.M.; or
- The population of the city where premises are located was 500,000 or more according to the 22<sup>nd</sup> Decennial Census of the United States as released by the Bureau of the Census on March 12, 2001; or
- The population of the city where premises are located was 800,000 or more according to the last Federal Census (2010).

SIGN  
HERE \_\_\_\_\_ COUNTY  
County Clerk

**S E A L**

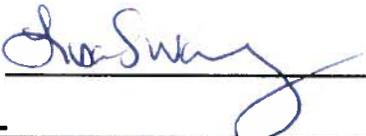
## COMPTROLLER OF PUBLIC ACCOUNTS CERTIFICATE

This is to certify on this 25<sup>th</sup> day of January, 2012, the applicant holds or has applied for and satisfies all legal requirements for the issuance of a Sales Tax Permit under the Limited Sales, Excise and Use Tax Act or the applicant as of this date is not required to hold a Sales Tax Permit.

Sales Tax Permit Number 32042556699 Outlet Number 00001

Print Name of Comptroller Employee Lisa Swarny

Print Title of Comptroller Employee EO

SIGN  
HERE  FIELD OFFICE 2H17

**S E A L**

## PUBLISHER'S AFFIDAVIT (FOR MB, LB, RM, & BP)

Name of newspaper		<b>ATTACH PRINTED COPY OF THE NOTICE HERE</b>
City, County		
Dates notice published in daily/weekly newspaper (mm/dd/yyyy)	/ /	
<b><i>Publisher or designee certifies attached notice was published in newspaper stated on dates shown</i></b>		
Signature of publisher or designee		
Sworn to and subscribed before me on this date	/ /	
Signature of Notary Public		
<b>S E A L</b>		





## Legislation Text

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**File #:** ID#13-461, **Version:** 1

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**AGENDA CAPTION:**

Presentation, discussion, and direction to staff on the Land Development Code Revisions (Code SMTX).

**Meeting date:** July 22, 2014

**Department:** Development Services

**Funds Required:**

**Account Number:**

**Funds Available:**

**Account Name:**

**CITY COUNCIL GOAL:**

**BACKGROUND:**

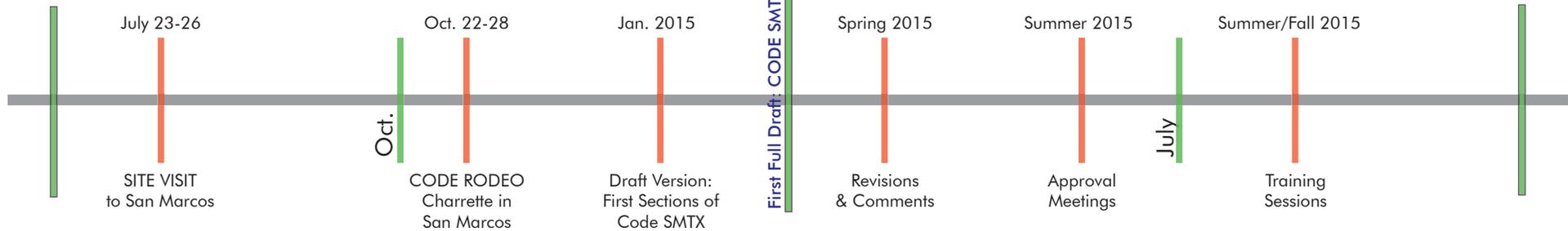
Code SMTX is the major reworking of the Land Development Code called for in *Vision San Marcos*. Staff will provide an update on the project and outline the schedule for the kickoff week (July 22-26). Key items include:

- Tuesday the 22<sup>nd</sup> - the Planning and Zoning Commission will hold a discussion about the Code at its meeting
- Wednesday the 23<sup>rd</sup> - the first Committee meeting
- Wednesday the 23<sup>rd</sup> and Thursday the 24<sup>th</sup> - the project team of consultants, staff, and committee members will tour the city with stops in neighborhoods to discuss issues and opportunities with residents
- Friday the 25<sup>th</sup> - stakeholders will meet with the project team
- Saturday the 26<sup>th</sup> - the week will conclude with the Rhythm of the Street event, the public kick-off of the Code SMTX & Transportation Master Plan projects

# Key Dates for Code SMTX

**June 2014**

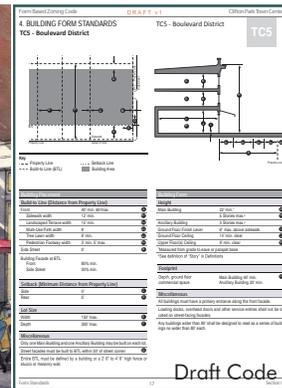
Project Start



**March 2015**

**December 2015**

Anticipated Completion





# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Legislation Text

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**File #:** ID#13-454, **Version:** 1

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**AGENDA CAPTION:**

Development Services Report:

- a. Rhythm of the Street - July 26th

**Meeting date:** July 22, 2014

**Department:** Development Services

**Funds Required:** n/a

**Account Number:** n/a

**Funds Available:** n/a

**Account Name:** n/a

**CITY COUNCIL GOAL:**

**BACKGROUND:**