



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Regular Meeting Agenda - Final Planning and Zoning Commission

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Tuesday, January 12, 2016

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

1. Introduce Newly Appointed Commissioner

IV. 30 Minute Citizen Comment Period

### CONSENT AGENDA

2. Consider approval of the minutes of the Regular Meeting on December 8, 2015.

### PUBLIC HEARINGS

3. CUP-15-19 (Verts Kebap) Hold a public hearing and consider a request by Kevin Blackburn, on behalf of Verts Kebap LLC, for a new Restricted Conditional Use Permit to allow the sale of beer and wine for on-premise consumption at 301 North Guadalupe Street, Ste. 154. (A. Villalobos)
4. CUP-15-32 (North Street Inc.) Hold a public hearing and consider a request by Chase Katz, on behalf of North Street Inc., for a new Conditional Use Permit to allow the sale of beer and wine for on-premise consumption at 216 North Street. (A. Villalobos)
5. CUP-15-41 (Urban Bricks Pizza) Hold a public hearing and consider a request by James C. MacKenzie, on behalf of Urban Bricks Pizza, for a new Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 420 University Drive. (A. Villalobos)
6. CUP-15-42 (Pollo Tropical) Hold a public hearing and consider a request by Brad Vickers, on behalf of Fiesta Restaurant Group, Inc. for a Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 1439 North IH-35. (W. Parrish)

- 7. CUP-15-43 (Buzz Mill Coffee) Hold a public hearing and consider a request by Jason Sabala for a Restricted Conditional Use Permit for the sale of mixed beverages for on-premise consumption at 194 South Guadalupe Street. (W. Parrish)
- 8. SCW-15-02 (101 East Hopkins Street) Hold a public hearing and consider a request by Dave M. Newman for a SmartCode Warrant to allow a wireless transmitter in a SmartCode T5 zoning district at 101 East Hopkins Street. (A. Brake)

**NON-CONSENT AGENDA**

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#16-30, **Version:** 1

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**AGENDA CAPTION:**

Introduce Newly Appointed Commissioner

**Meeting date:** January 12, 2016

**Department:** Planning and Development Services

**Funds Required:** n/a

**Account Number:** n/a

**Funds Available:** n/a

**Account Name:** n/a

**CITY COUNCIL GOAL:**

**COMPREHENSIVE PLAN ELEMENT(s):**

**BACKGROUND:**



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Legislation Text

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**File #:** ID#15-767, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of the minutes of the Regular Meeting on December 8, 2015.

**Meeting date:** January 12, 2016

**Department:** Planning and 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

DRAFT

## Meeting Minutes Planning and Zoning Commission

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Tuesday, December 8, 2015

6:00 PM

City Council Chambers

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630 E. Hopkins

### I. Call To Order

### II. Roll Call

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, December 8, 2015 in the City Council Chambers of the City of San Marcos, City Hall, 630 E. Hopkins, San Marcos, Texas.

**Present** 6 - Chairperson Chris Wood, Commissioner Angie Ramirez, Commissioner Jim Garber, Commissioner Travis Kelsey, Commissioner Shawn Dupont, and Commissioner Kate McCarty

**Absent** 2 - Vice Chair Kenneth Ehlers, and Commissioner Saul Gonzales

### III. Chairperson's Opening Remarks

Chair Wood announced that Item #5 CUP-15-19 (Verts Kebap) will be postponed to the next Planning and Zoning Commission meeting due to a posting issue.

### IV. 30 Minute Citizen Comment Period

There were no comments.

## CONSENT AGENDA

1. Consider approval of the minutes of the Regular Meeting on November 10, 2015.
2. PC-15-43\_02 (Paso Robles Phase 2 Preliminary Plat) Consider a request by Pape-Dawson Engineers, LLC, on behalf of Carma Paso Robles, LLC, for approval of a Preliminary Plat for approximately 67.34 acres, more or less, out of the Edward Burleson Survey located near the intersection of Hunter Road and Centerpoint Road. (T. Carpenter)
3. PC-15-47\_03 (Cottonwood Parkway Addition Final Plat) Consider a request by the City of San Marcos for approval of a Final Plat for approximately 27.22 acres, more or less, out of the JM Veramendi Survey located at the intersection of Cottonwood Parkway and Leah Avenue. (T. Carpenter)

**A motion was made by Commissioner Kelsey, seconded by Commissioner Dupont, that the Consent Agenda be approved. The motion carried by the**

**following vote:**

**For:** 6 - Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Kelsey, Commissioner Dupont and Commissioner McCarty

**Against:** 0

**Absent:** 2 - Vice Chair Ehlers and Commissioner Gonzales

**PUBLIC HEARINGS**

4. PC-15-42\_04 (Replat of Lot 1 Block 1, Intermediate School Subdivision Establishing Lot 1A, 1B, and 1C, Block 1, Intermediate School Subdivision) Hold a public hearing and consider a request by Richard McDaniel on behalf of 2202 Hunter Road Investments, for approval of a Replat of one 5.14 acre lot into three lots and the associated Subdivision Improvements Agreement, establishing the Replat of Lot 1 Block 1, Intermediate School Subdivision Establishing Lot 1A, 1B, and 1C, Block 1, Intermediate School Subdivision located at the intersection of Stagecoach Trail and Hunter Road. (W. Parrish)

Chair Wood opened the public hearing.

Will Parrish, Planning Tech gave an overview of the request.

There were no comments the the public hearing was closed.

**A motion was made by Commissioner Dupont, seconded by Commissioner Kelsey, that PC-15-42\_04 ( Replat of Lot 1, Block 1,Intermediate School Subdivision Establishing Lot 1A, 1B, and 1C, Block 1, Intermediate School Subdivision) be approved. The motion carried by the following vote:**

**For:** 6 - Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Kelsey, Commissioner Dupont and Commissioner McCarty

**Against:** 0

**Absent:** 2 - Vice Chair Ehlers and Commissioner Gonzales

5. CUP-15-19 (Verts Kebap) Hold a public hearing and consider a request by Kevin Blackburn, on behalf of Verts Kebap LLC, for a new Restricted Conditional Use Permit to allow the sale of beer and wine for on-premise consumption at 301 North Guadalupe Street, Ste. 154. (A.Villalobos)

Item postponed to the January 12, 2016 Planning Commission Meeting.

6. CUP-15-33 (Black Rabbit) Hold a public hearing and consider a request by FSW Ventures LLC, on behalf of Black Rabbit Saloon, for a renewal of an existing Unrestricted Conditional Use Permit to allow the continued sale of mixed beverages for on-premise consumption at 127 East Hopkins Street (A. Villalobos)

Chair Wood opened the public hearing.

Andrea Villalobos, Planning Tech gave an overview of the request.

There were no comments and the public hearing was closed.

**A motion was made by Commissioner Ramirez, seconded by Commissioner Garber, that CUP-15-33 (Black Rabbit) 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; the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:**

**For:** 5 - Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Dupont and Commissioner McCarty

**Against:** 0

**Absent:** 2 - Vice Chair Ehlers and Commissioner Gonzales

**Recused:** 1 - Commissioner Kelsey

7. CUP-15-34 (Zelicks Inc.) Hold a public hearing and consider a request by Seth Katz on behalf of Zelicks, for a renewal of a Conditional Use Permit to allow the continued sale of mixed beverages for on-premise consumption at 336 West Hopkins Street. (W. Parrish)

Chair Wood opened the public hearing.

Will Parrish, Planning Tech gave an overview of the request.

Seth Katz, 336 W. Hopkins stated that he and his brother Chase own Zelicks Ice House. He stated that they have enjoyed being part of the San Marcos business community. Mr. Katz said they recognize the importance of community input and hospitality of their operation. He said that they are committed to solving issues as they have done in the past. Mr. Katz added that in they will have the same approach in the future. He mentioned that his staff is trained by them to provide top service hospitality. He feels that they are a positive attribute to the community.

**A motion was made by Commissioner Dupont, seconded by Commissioner McCarty, that CUP-15-34 (Zelicks Inc.) 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; upon striping and designation of motorcycle parking on North Street, the applicant shall not permit motorcycle parking in front of the facility on Hopkins Street or in the parking lot of the facility, between the hours of 11:00 p.m. and 3:00 a.m.; the applicant shall shut down the portion of its outdoor games on the half of Zelicks' property adjacent to the Crystal River Inn, at 12:00 a.m. on Friday and Saturday nights, but may keep games open on the half of Zelicks' property adjacent to North Street; the applicant shall constantly monitor the level of amplified or stereo music at all times in respect for the Crystal River Inn and shut down all amplified or stereo music at 2:00 a.m.; the applicant shall not operate any sound equipment that**

**produces sound in excess of 75 decibels for a period exceeding one minute between the hours of 11:00 p.m. and 3:00 a.m. as measured from within the property line of the Crystal River Inn; and, no live outdoor amplified music shall be allowed; the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:**

**For:** 5 - Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Dupont and Commissioner McCarty

**Against:** 0

**Absent:** 2 - Vice Chair Ehlers and Commissioner Gonzales

**Recused:** 1 - Commissioner Kelsey

8. CUP-15-35 (Putt Pub) Hold a public hearing and consider a request by Putt Pub Enterprises LLC, for a Conditional Use Permit to allow for the on-premise consumption of mixed beverages at 307 South LBJ Drive. (W. Parrish)

Chair Wood opened the public hearing.

Will Parrish, Staff Planning Tech gave an overview of the request.

Dr. Kermit M. Welch stated his office is adjacent to 321 W. LBJ across from Compass Bank. He said that the parking will be insufficient for the amount of people. He felt that people will park along the streets and accessing his parking lot. Dr. Welch pointed out that there is a lot of vandalism in the area. He said he has been there for about 22 years and has only gotten a little better. He mentioned that the copper has been stolen from Dollar Store twice and from his air conditioning system. Dr. Welch added that they routinely have beer cans and trash scattered all over the parking lot. He feels it is not acceptable for a bar to be developed within sixty feet of his business. He added that it will hurt his practice and the city may lose the only board certified orthodontist.

Will Parrish, Planning Tech explained the proposed parking.

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

**A motion was made by Commissioner Ramirez, seconded by Commissioner Dupont, that CUP-15-35 (Putt Pub) be approved with the conditions that the permit shall be valid for one (1) year provided standards are met; no outdoor amplified live music after 10:00 p.m. and the permit shall be posted in the same area and manner as the Certificate of Occupancy.**

**A motion was made by Commissioner Garber, seconded by Commissioner McCarty, that the motion be amended to strike the word "live" in the**

**conditions. The motion failed by the following vote:**

- For:** 2 - Commissioner Garber and Commissioner McCarty
- Against:** 3 - Chairperson Wood, Commissioner Ramirez and Commissioner Dupont
- Absent:** 2 - Vice Chair Ehlers and Commissioner Gonzales
- Recused:** 1 - Commissioner Kelsey

**Chair Wood called for a vote on the Main Motion to approve CUP-15-35 (Putt Pub) with the conditions that the permit be valid for one (1) year provided standards are met; no outdoor amplified live music after 10:00 p.m. and the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried with the following vote:**

- For:** 5 - Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Dupont and Commissioner McCarty
- Against:** 0
- Absent:** 2 - Vice Chair Ehlers and Commissioner Gonzales
- Recused:** 1 - Commissioner Kelsey

9. CUP-15-36 (Cheer & Chow) Hold a public hearing and consider a request by Keepin' It Food, L.L.C., on behalf of Cheer & Chow, for a new Conditional Use Permit to allow the sale of beer and wine for on-premise consumption at 700 North LBJ Drive, Suite 102B. (A. Brake)

Chair Wood opened the public hearing.

Alison Brake, Staff Planner gave an overview of the request.

There were no comments and the public hearing was closed.

**A motion was made by Commissioner Garber, seconded by Commissioner Ramirez, that CUP-15-36 (Cheer & Chow) be approved with conditions that the CUP shall be valid for one (1) year, provided the standards are met, subject to the point system; the permit shall be effective upon issuance of the Certificate of Occupancy; and the CUP shall be posted in the same manner and location as the Certificate of Occupancy. The motion carried by the following vote:**

- For:** 6 - Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Kelsey, Commissioner Dupont and Commissioner McCarty
- Against:** 0
- Absent:** 2 - Vice Chair Ehlers and Commissioner Gonzales

10. CUP-15-37 (1012 North Bishop Street) Hold a public hearing and consider a request by David Mendez for a Conditional Use Permit to allow an accessory dwelling unit in a Single-Family (SF-6) zoning district at 1012 North Bishop Street. (A. Brake)

Chair Wood opened the public hearing.

Alison Brake, Staff Planner gave an overview of the request.

There were no comments and the public hearing was closed.

**A motion was made by Commissioner Dupont, seconded by Commissioner McCarty, that CUP-15-37 (1012 North Bishop Street) be approved with conditions that the accessory dwelling unit may not be rented separately from the main residence; the single-family occupancy restriction applies to the entire property; there shall be no separate utility meters; and the permit is granted to the applicant and is required to be renewed if the property is sold. The motion carried by the following vote:**

**For:** 6 - Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Kelsey, Commissioner Dupont and Commissioner McCarty

**Against:** 0

**Absent:** 2 - Vice Chair Ehlers and Commissioner Gonzales

11. CUP-15-38 (Olive Garden) Hold a public hearing and consider a request from Olive Garden of Texas, for a Conditional Use Permit for the consumption of mixed beverages at 1305 South IH 35. (W. Parrish)

Chair Wood opened the public hearing.

Will Parrish, Planning Tech gave an overview of the request.

Robert Jett, 219 Parker Drive stated that earlier in the year Sunset Acres protested a request on the property because it was an incompatible business, noise and traffic increase on their streets. He said that with Olive Garden coming into their neighborhood, traffic is still a major concern. He added that traffic will increase into the neighborhood if patrons are allowed to use access to and from Hays Street. Mr. Jett explained that traffic counts were performed and estimated that 1,603 trips were made. He pointed out that he spoke with people from Olive Garden and they have estimated five thousand to six thousands tickets in the first two weeks and four to five thousands tickets the following weeks. He feels that it will be an enormous impact on the streets and could lead to property value loss. Mr. Jett provided a photo of the street explaining that the street is narrow and only wide enough for three vehicles from curb to curb. Mr. Jett stated that Olive Garden is a great fit for the neighborhood and applauds City Council for listening to their earlier request and finding this fit. He said that the neighborhood is asking that there be no direct or indirect access to Hays Street from the Olive Garden.

**A motion was made by Commissioner Kelsey, seconded by Commissioner**

**Dupont, that CUP-15-38 (Olive Garden) be approved with conditions that the permit be valid for (1) year provided standards are met; the building is located no closer than 40 feet to the residential property; 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:** 6 - Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Kelsey, Commissioner Dupont and Commissioner McCarty

**Against:** 0

**Absent:** 2 - Vice Chair Ehlers and Commissioner Gonzales

12. CUP-15-39 (Fairfield Inn & Suites) Hold a public hearing and consider a request by Castle Hospitality LTD, on behalf of San Marcos Affiliates, LTD, for a Conditional Use Permit to allow for the sale of beer and wine for on premise consumption at 1250 N IH 35. (T. Carpenter)

Chair Wood opened the public hearing.

Tory Carpenter, Staff Planner gave an overview of the request.

There were no comments and the public hearing was closed.

**A motion was made by Commissioner Ramirez, seconded by Commissioner McCarty, that CUP-15-39 (Fairfield Inn & Suites) be approved with conditions that the permit be valid for (1) year provided standards are met; the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:**

**For:** 6 - Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Kelsey, Commissioner Dupont and Commissioner McCarty

**Against:** 0

**Absent:** 2 - Vice Chair Ehlers and Commissioner Gonzales

13. CUP-15-40 (Sean Patrick's) Hold a public hearing and consider a request by BRSP, L.L.C., on behalf of Sean Patrick's, to amend an existing Restricted Conditional Use Permit to extend service of mixed beverages for on-premise consumption to a new sidewalk café at 202 East San Antonio Street. (A. Brake)

Chair Wood opened the public hearing.

Alison Brake, Staff Planner gave an overview of the request.

There were no comments and the public hearing was closed.

**A motion was made by Commissioner Ramirez, seconded by Commissioner McCarty, that CUP-15-40 (Sean Patrick's) be approved with conditions that the permit shall be valid for the rest of the CUP period, expiring on October 2, 2016, provided the standards are met, subject to the point system; signs**

**preventing patrons from leaving with alcoholic beverages are posted at any exits from the sidewalk café; 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:** 5 - Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Dupont and Commissioner McCarty

**Against:** 0

**Absent:** 2 - Vice Chair Ehlers and Commissioner Gonzales

**Recused:** 1 - Commissioner Kelsey

## **NON-CONSENT AGENDA**

### **14. Development Services Report:**

1. Code SMTX Open House Update
2. P&Z Commissioner Vacancy on December 15 Council Agenda
3. Next P&Z Meeting, January 12, 2016

**Kristy Stark stated that the Code SMTX Open House was a very successful event and approximately 75 people attended. She added that good comments and feedback was received. She added that an interactive open house will be posted online. Kristy reminded the Commission that the next Commission meeting will be on January 12, 2016.**

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

Cathy Dillon, 1000 Burleson Street said she and her husband own Crystal River Inn located next to Zelicks. She said that what is troubling to her is 'live music.' She asked why can live music be allowed in an area with an overhang with posts that is totally wall less. Ms. Dillon said that there is alot of racket in downtown San Marcos. She pointed out that she lives about one mile from downtown and when Zelicks provides music she can hear it at her home. She asked if the conditions for the renewal for Zelicks changed. Chair Wood confirmed that the conditions did not change and that the existing conditions would remain.

### **VI. Adjournment**

**A motion was made that the meeting be adjourned at 7:58 p.m. The motion carried by a unanimous vote.**

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**Chris Wood, Chair**

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**Travis Kelsey, Commissioner**

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**Angie Ramirez, Commissioner**

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**Jim Garber, Commissioner**

\_\_\_\_\_  
**Shawn Dupont, Commissioner**

\_\_\_\_\_  
**Kate McCarty, 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:  
\_\_\_\_\_

Note

Note



## Legislation Text

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**File #:** CUP-15-19, **Version:** 1

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**AGENDA CAPTION:**

CUP-15-19 (Verts Kebap) Hold a public hearing and consider a request by Kevin Blackburn, on behalf of Verts Kebap LLC, for a new Restricted Conditional Use Permit to allow the sale of beer and wine for on-premise consumption at 301 North Guadalupe Street, Ste. 154. (A.Villalobos)

**Meeting date:** January 12, 2016

**Department:** Planning and 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

**COMPREHENSIVE PLAN ELEMENT(s):** n/a

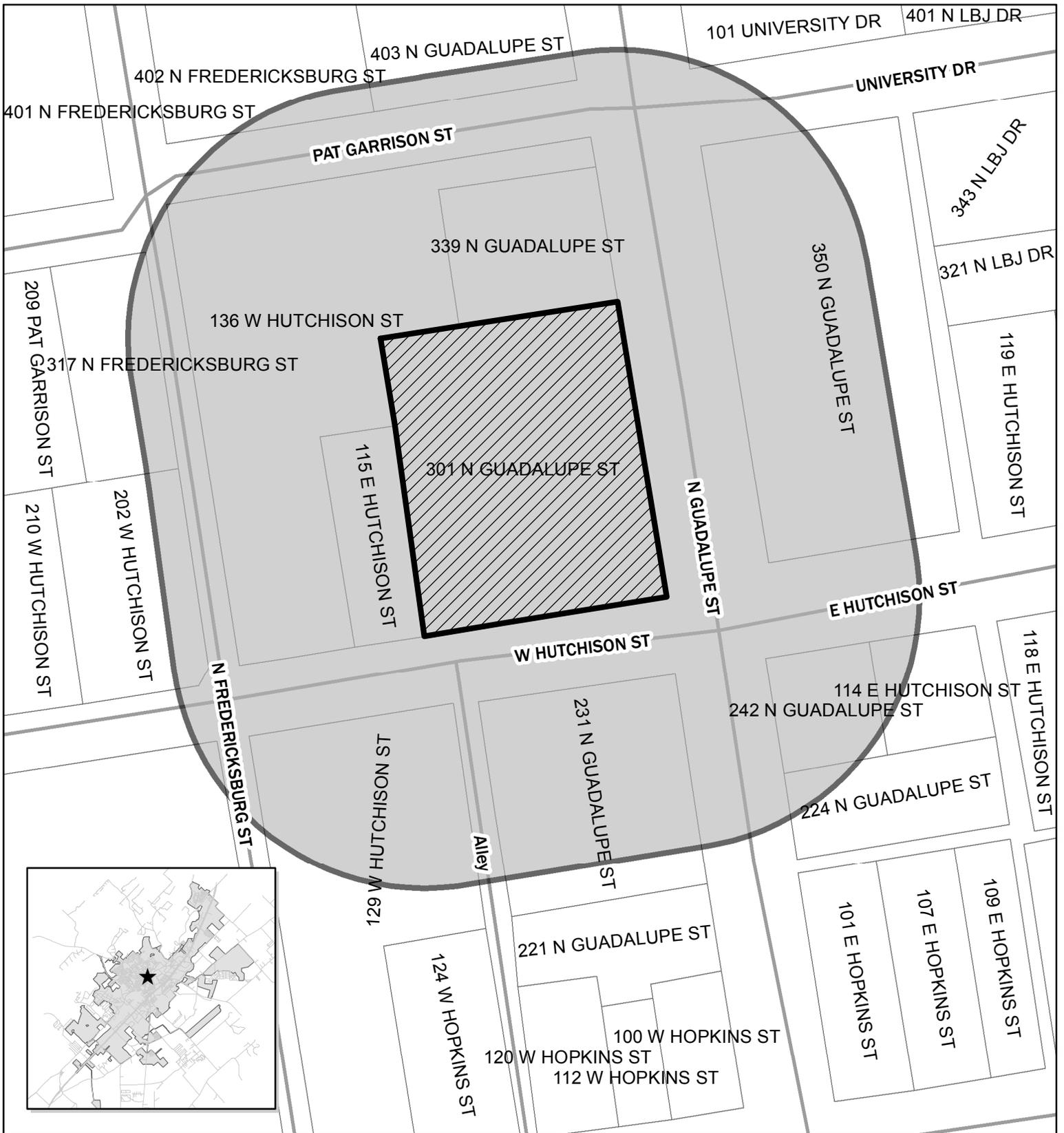
**BACKGROUND:**

Verts Kebap is a new restaurant proposed at the northwest corner of North Guadalupe Street and Hutchison Street and is within a portion of the old downtown Post Office. The site is located within the Central Business Area (CBA) and the SmartCode District. The applicant has requested a new **Restricted (Restaurant) Conditional Use Permit** which requires that the business comply with standards outlined in LDC Section 4.3.4.2.

On November 17, 2015, the San Marcos City Council approved an Economic Development Incentive Agreement to grant a waiver of the six month waiting period for on-premise sales of beer and wine (LDC Section 4.3.4.2c). This agreement was approved based on the City's desire to promote local economic development and to stimulate business and commercial activity in the City by encouraging new in-fill development and job creation in the downtown area (Resolution 2015-167R). This allows the applicant to apply for this CUP without being subject to the waiting period.

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 permit 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; and**
3. **The permit shall be posted in the same area and manner as the Certificate of Occupancy**



**CUP-15-19**  
**Verts Kebap Notification Map**  
**301 N Guadalupe St Ste 154**  
**Map Date: 12/22/2015**



Site Location



Notification Buffer  
200 ft



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-15-19**  
**Verts Kebap Aerial**  
**301 N Guadalupe St Ste 154**  
**Map Date: 1/7/2016**



301 N Guadalupe St  
Ste 154

0 62.5 125 250 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-15-19

## Restricted Conditional Use Permit

### Verts Kebap

### 301 North Guadalupe Street, Ste. 154

#### Applicant Information:

**Applicant:** Kevin C Blackburn

**Mailing Address:** Verts Kebap LLC  
2025 Guadalupe St., Ste 248  
Austin, TX 78705

**Property Owner:** Guadalupe & Hutchison Street Partners  
750 E Mulberry Ave, Suite 305  
San Antonio, TX 78212

**Applicant Request:** Approval of a new Restricted Conditional Use Permit (CUP) to allow on-premise consumption of beer and wine at a restaurant establishment.

**Public Hearing Notice:** Public hearing notification mailed on December 23, 2015

**Response:** A letter was provided by the First United Methodist Church in regards to the public hearing that was scheduled for this case on December 8, 2015. This case was postponed from the original December 8 meeting. Because this letter addresses concerns with the overall case, this letter has remained within your packet for the January 12, 2016 meeting.

#### Subject Property:

**Expiration Date:** None

**Location:** 301 North Guadalupe Street, Ste. 154

**Legal Description:** Original Town of San Marcos, Lots 1 & 2 & part of Lot 8, Block 25, & part of Farm Lot 22

**Frontage On:** North Guadalupe Street

**Neighborhood:** Downtown

**Existing Zoning:** SmartCode T5 – Urban Center

**Preferred Scenario Designation:** High Intensity

**Utilities:** Adequate

**Existing Use of Property:** Commercial Redevelopment – Vacant Suite

	<b>Current Zoning</b>	<b>Existing Land Use</b>
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**Zoning and  
Land Use Pattern:**

<b>N of property</b>	T5	Commercial, Retail
<b>S of property</b>	T5	Commercial, Bank
<b>E of property</b>	GC	Commercial, Bank
<b>W of property</b>	T5	Commercial, Gas Station

**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.

Under Section 4.3.4.2 of the LDC 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).

The applicant has requested a new **Restricted (Restaurant) Conditional Use Permit** which requires that the business must comply with the following standards at all times. There is a limit of 15 Restricted CUPs in the Central Business Area at any time. (Section 4.3.4.2). There are 11 Restricted CUPs currently existing.

- a. 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.
- b. The business must apply for, obtain and maintain a food establishment permit in accordance with Chapter 18 of the City Code.
- c. 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.
- d. The business must be used, maintained, advertised and held out to the public as a place where meals are prepared and served.

The restaurant must be in operation for 6 months before a permit for beer and wine is issued, and 12 months before a permit for mixed beverages is issued without a previously approved Economic Development Waiver.

**Case Summary**

The subject property is located at the northwest corner of North Guadalupe Street and West Hutchison Street. The site is located inside the Central Business Area (CBA) and the SmartCode district. The subject property was originally constructed as a post office and is now being redeveloped as a retail and restaurant project. Surrounding uses include a bank, gas station, parking lot, and strip retail center. There is a church to the southwest of the property, however, the proposed restaurant is buffered by the corner suite, MedSpring Urgent Care, and meets the distance requirements per the LDC.

The proposed restaurant would be a tenant in the old downtown Post Office. Per the SmartCode, businesses located within the Central Business Area (CBA) are not required to provide off-street parking. However, based upon the overall site plan for the lot, 37 onsite spaces are provided at the rear of the property and are utilized by the entire building, and 19 on-street spaces exist along the street frontages.

The total gross floor area of the space is 1,853 square feet with 50 indoor fixed seats and approximately 12 outdoor seats. While outdoor seating is proposed at the front of the business, the seating area exists on private property and is therefore not subject to a License and Maintenance Agreement enforced under the City's Sidewalk Café Ordinance. No entertainment facilities are proposed at this time. The application indicates hours of operation from 11 a.m. to 10 p.m. Monday – Sunday. A menu list has been included as an attachment.

**Comments from Other Departments:**

The Police Department has no issues with the proposed establishment and there have been no other comments from other 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 and does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic.

On November 17, 2015, the San Marcos City Council approved an Economic Development Incentive Agreement to grant a waiver of the six month waiting period for on-premise sales of beer and wine (LDC Section 4.3.4.2c). This agreement was approved based on the City's desire to promote local economic development and to stimulate business and commercial activity in the City by encouraging new in-fill development and job creation in the downtown area (Resolution 2015-167R). This allows the applicant to apply for this CUP without being subject to the waiting period.

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

- Initial approval for 1 year;
- Renewal for 3 years

The Land Development Code however states that Restricted permits are valid for three years from date of issuance and cannot be valid for more than 3 years. Planning Commission has the discretion to add additional conditions.

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

- 1. The permit 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; and**
- 3. The permit shall be posted in the same area and manner as the Certificate of Occupancy.**

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 Comprehensive 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:**

Andrea Villalobos

Planning Technician

December 28, 2015

---

**Name**

**Title**

**Date**

# Measurement to First Methodist Church



Verts Kebap

N GUADALUPE ST

W HUTCHISON ST  
~ 337 ft

First United Methodist Church

— Distance Measurement



**FIRST UNITED  
METHODIST CHURCH  
SAN MARCOS**

Rev. Jarrell V. Sharp, Senior Pastor  
Rev. Todd Salmi, Pastor

129 W. Hutchison St.  
San Marcos, TX  
Phone: 512.392.6001/ Fax: 512.392.8001  
www.fumcsm.org

December 8, 2015

**SAN MARCOS PLANNING AND ZONING COMMISSION MEMBERS**

Mr. Kenneth Ehlers

Ms. Angie Ramirez

Mr. Christopher Wood

Mr. Jim Garber

Ms. Kate McCarty

Mr. Shawn Dupont

Mr. Saul Gonzales

Mr. Travis Kelsey

City Hall, San Marcos Texas 78666

Dear Members of the San Marcos P&Z Commission,

The purpose of this letter is to express the views of the First United Methodist Church of San Marcos regarding the request for conditional use permit CUP-15-19 by Verts Kebap (Kevin C Blackburn) to allow onpremise consumption of beer and wine at a restaurant establishment.

**We ask you to postpone consideration of this CUP until our church and our Day School & Afterschool have a chance to review and discuss this application.** Our church did NOT receive prior notification of this public hearing. We only found out about the public hearing due to an article in this morning's newspaper. We are within the notification area for such a permit. Our church has a full time business manager who monitors the mail for such notification, but none has been received. We've routinely received other notifications and respond in kind, including a letter on file for CUP-14-21 granted for Torchy's Tacos in the same center. We should receive adequate notice and time to fully respond.

We believe postponing this particular application will give valuable time to develop a constructive friendship that can mutually enhance the diverse property uses in this particular portion of the downtown neighborhood.

First United Methodist Church believes in a vibrant and diverse downtown centered on all of San Marcos. We are glad to see additional restaurants provide a place for students, adults, and families to gather. We appreciate Verts Kabap's primary focus on food and their limited hours of late night operation.

Additionally time will not only resolve the lack of proper notice, but it will provide time to address two initial concerns with the staff report:

**The staff report fails to adequately incorporate the preexisting spiritual and educational activities taking place in close proximity to this permit.**

- Our church is located directly adjacent to the old Post Office where this CUP is proposed. First United Methodist Church has been a continuous community presence in downtown San Marcos since 1847. We are a congregation of over 1,100 members with extensive children, youth, family and community programs. We are a spiritual home to many in San Marcos.
- For decades we have operated a state-licensed school and childcare program on our location. In addition to a day school operating for 30 years with over 100 children enrolled, we recently launched a 5-day a week state-licensed afterschool program for elementary students to help working families. None of these activities are reflected in the public report prepared by staff.

- We are a downtown economic asset employing over 50 people through our ministries and school and we prioritizing purchasing from local businesses.
- We are a civic asset through our support of community-wide efforts with money and resources. Activities occur at our church seven days a week during all times of the day, evening, and night.
- We are a place of community service to benefit all the citizens of San Marcos as evidenced by our recent leadership in flood recovery efforts.

**The staff report states that this permit “does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic.”**

- The staff report notes 43 shared parking spaces are provided, but fails to specify these are shared by 7 total businesses. In our experience, the 43 space parking lot is already over capacity – without the recent addition of two restaurants (including Verts Kabaps) opening. The overflow parking spills out into the surrounding neighborhood making it more difficult to find parking for our church and day school activities.
- We are concerned about traffic flow given the grade of the hill behind the post office. As cars exit onto Hutchison, the driver has very limited visibility into a major pedestrian crossing for our church and community activities. We have seen many near accidents and worry that alcohol makes the existing challenging traffic even more dangerous.
- The traffic generated by nearby businesses such as Verts Kabaps and its neighbor establishments have resulted in gridlocked traffic along Hutchison in the evening, making it inconvenient for people who want to attend church/community activities at our church. The additional traffic has made it more dangerous for people with small children.
- The additional traffic generated by this business and its neighbors needs to be constructively addressed for the benefit of its neighbors.

We believe neighborly consideration of the close proximity of our church will taken into account by the owners. We look forward to a productive and practical solution to minimize any neighborhood inconveniences. We look forward to welcoming Verts Kebaps to San Marcos and encourage them to invest not only in their business, but to become active and visibly engaged corporate citizens in community service in San Marcos.

If we may be helpful to this commission, please contact us at (512) 392-6001.

Best Regards,



Dr. Amy M. Meeks  
Chair, Church Council



Chris Secrest  
Chair, Trustees of First UMC











# VERTSKĚBAP

*Kebaps, Wraps, Salads*

01

## **Kebap** *on Bread*

## **Wrap** *in a Tortilla*

## **Salad** *on Spring Mix*

.....  
*Add Fries made-to-order*  
.....

02

REGULAR    SNACK

## **Beef&Lamb**

7<sup>65</sup>

5<sup>25</sup>

## **Chicken**

6<sup>95</sup>

4<sup>95</sup>

## **Falafel**

6<sup>45</sup>

4<sup>65</sup>

03

## **Fresh Veggies**

Spring Mix  
Red Cabbage  
Tomato  
Cucumber  
Bell Pepper  
Corn  
Onion  
Jalapeño

## **Sauces**

House  
Garlic  
Vinaigrette  
Spicy Red  
Hot

## **Extras**

Grilled Veggies  
Feta Cheese

04

## **Beverages**

Fountain Drink    1<sup>95</sup>  
Local Draft Beer    4<sup>50</sup>  
Iced Coffee    3<sup>50</sup>  
  
BOTTLED  
Water    2  
Juice    2  
Natural Soda    2<sup>75</sup>  
Iced Tea    3<sup>50</sup>  
Beer    3<sup>50</sup>

## **Sides**

Fries    1<sup>95</sup> / 3<sup>45</sup>  
Falafel    1<sup>95</sup> / 3<sup>45</sup>  
Sweet Potato Fries    1<sup>95</sup> / 3<sup>45</sup>  
Chips    1<sup>50</sup>  
Brownie    2<sup>75</sup>

[vertskebab.com](http://vertskebab.com)



EXPLORE OUR FAVORITE  
KEBAPS, WRAPS & SALADS

---

### **The Verts Original**

Beef&Lamb or Chicken, Spring Mix,  
Red Cabbage, Tomato, Cucumber, Onion,  
House Sauce, Vinaigrette & Spicy Red Sauce

### **The Texan**

Beef&Lamb or Chicken, Spring Mix, Tomato,  
Cucumber, Corn, Onion, Jalapeño, Spicy Red Sauce

### **The Red Hot**

Beef&Lamb or Chicken, Red Cabbage, Tomato,  
Bell Pepper, Jalapeño, Spicy Red Sauce & Hot Sauce

### **The Vegetarian**

Falafel, Spring Mix, Tomato, Cucumber,  
Bell Pepper, Corn, Onion, House Sauce & Vinaigrette

---

## *Quality Ingredients*

Our lean meats are locally sourced, seasoned with traditional Turkish spices, stacked by hand and placed on our roasting jacks. An updated version of an ancient method, a vertical rotisserie cooks the meat evenly as it turns and allows grease & fat to be captured below.

Our Turkish-style, partially leavened *pide* bread is grilled to order. Vegan, low calorie and trans fat-free, it's crisp on the outside, chewy on the inside, and won't get soggy like sandwich bread.

Our House, Garlic & Spicy Red sauces are yogurt-based — not cream or mayonnaise. They're delicious, better for you, and ideal if you're concerned about health & calories.

CUP-15-19

**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: VERTS KEBAP  
 Application is filed by:  Individual  Partnership  Corporation  Other:  
 Name of Individual or Entity: VERTSKEDAP LLC Phone Number: 512 800-8194  
 Mailing Address: 2025 GUADALUPE St. suite 248 Austin TX 78705  
 Email Address: INFO @ VERTSKERAP.COM  
 Type of Permit Requested:  Mixed Beverage  Beer & Wine  Other:

**PROPERTY**  
 Street Address: 301 GUADALUPE Suite 154 SAN MARCOS TX 78666  
 Legal Description: Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision \_\_\_\_\_  
 Tax ID Number: R  
 Property Owner's Name: Guadalupe & Hutchins<sup>street</sup> Partners Phone Number: \_\_\_\_\_  
 Address: 790 E. Mulberry Ave, Suite 305 San Antonio TX 78212

**BUSINESS DETAILS**  
 Primary Business Use:  Restaurant (Restricted)  Bar (Unrestricted)  Other:  
 Hours of Operation: 11:00 am - 10:00 pm 7 days/week  
 Type of Entertainment Facilities: \_\_\_\_\_  
 Indoor Fixed Seats: 0 Outdoor Fixed Seats: 0  
 Gross Floor Area Including Outdoor Above-ground Decks: 1853 SF Square Feet  
 Number of Off-Street Parking Spaces Provided: \_\_\_\_\_  
 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: KEVIN C BLACKBURN

Date: 06/26/2015

*To be completed by Staff:*

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

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

City of San Marcos

Kevin Burke

630 E Hopkins

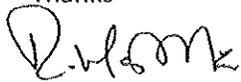
San Marcos, Texas 78666

Re: Verts CUP Application – Guadalupe Station – 301 N Guadalupe, San Marcos, Texas 78666

Kevin:

Please let this letter serve as notification that the Landlord (Guadalupe and Hutchison Street Partners, Ltd.) grants Verts permission to apply for a Conditional Use Permit with the City of San Marcos.

Thanks –

 June 26, 2015

Guadalupe and Hutchison Street Partners, Ltd.

R.W. McDonald, IV – Manager of the General Partner Entity

750 E Mulberry Avenue, Suite 305

San Antonio, Texas 78212



## Legislation Text

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**File #:** CUP-15-32, **Version:** 1

---

**AGENDA CAPTION:**

CUP-15-32 (North Street Inc.) Hold a public hearing and consider a request by Chase Katz, on behalf of North Street Inc., for a new Conditional Use Permit to allow the sale of beer and wine for on-premise consumption at 216 North Street. (A. Villalobos)

**Meeting date:** January 12, 2016

**Department:** Planning and 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

**COMPREHENSIVE PLAN ELEMENT(s):** n/a

**BACKGROUND:**

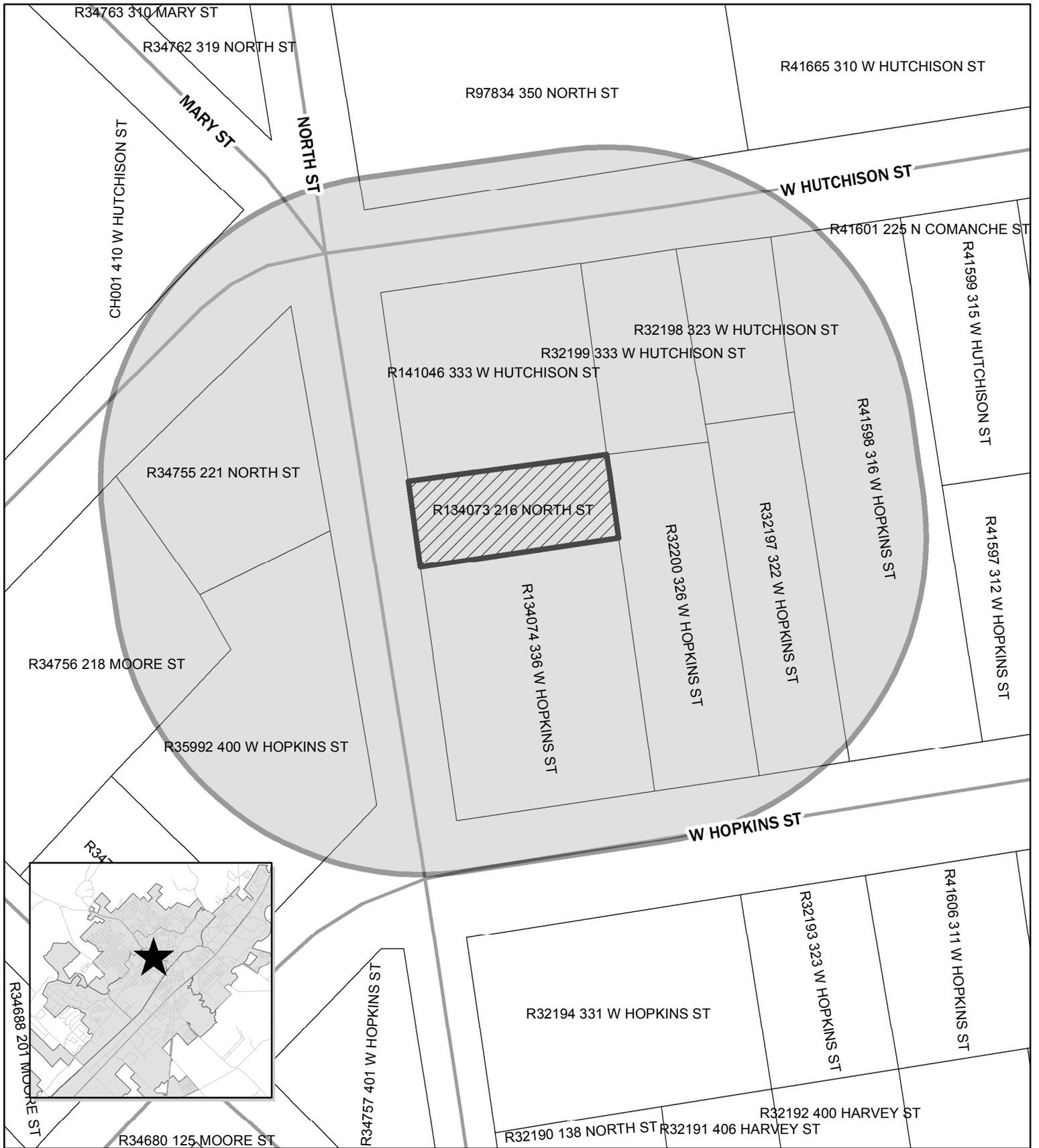
North Street Inc. is a bar proposed at 216 North Street. The property is surrounded by commercial development within the T5 Urban Center SmartCode. The subject property was previously a small engine repair shop and is currently vacant. The proposed improvements to the site include renovations to the existing structure located towards the front of the lot to include indoor seating as well as outdoor seating and streetscape improvements along North Street.

Proposed hours of operation are Monday - Wednesday 11 a.m. to 11 p.m., Thursday - Saturday 11 a.m. to midnight, and Sunday hours are noon - 11 p.m. The application indicates that indoor fixed seating capacity is 42 seats with 65 outdoor seats and a total gross floor area of approximately 1,586 sq.ft. There are 20 proposed parking spaces utilized on the adjacent shared parking lot. The application indicates there are no entertainment facilities proposed.

Although the application does not indicate that entertainment facilities are proposed, staff recommends that the condition of *no live outdoor amplified music* be added to the CUP to decrease potential noise impacts. Other items that may help mitigate any potential noise impacts are that the applicant is proposing to end hours of operation at midnight and is not pursuing a Late Hours TABC license. Based upon the submitted site plan, the proposed building is buffered from the adjacent Crystal River Inn by approximately 75 feet. Any new improvements or substantial modifications to the site plan will require an amendment to the CUP and subsequent review by Staff and the Planning and Zoning Commission.

Staff has reviewed the request for compliance with the Land Development Code 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. **No live outdoor amplified music shall be allowed;**
3. **The permit shall be effective upon the issuance of the Certificate of Occupancy; and**
4. **The CUP shall be posted in the same area and manner as the Certificate of Occupancy.**



**CUP-15-32**  
**North Street Inc.**  
**216 North Street**  
**Map Date: 11/24/2015**

**Legend**

-  200ft Buffer
-  216 North St.



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-15-32**  
**North Street Inc.**  
**216 North Street**  
**Map Date: 11/24/2015**

**Legend**  
 216 North St.



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-15-32

## Conditional Use Permit

### North Street Inc.

### 216 North Street



#### Applicant Information:

**Applicant:** Chase Katz on behalf of North Street Inc.

**Mailing Address:** 216 North Street  
San Marcos, TX 78666

**Property Owner:** Katz Development LLC  
1205 Pin Oak Dr.  
Dickinson, TX 77539

**Applicant Request:** Request for a new Conditional Use Permit to allow the sale of beer and wine for on-premise consumption at 216 North Street.

**Public Hearing Notice:** Public hearing notification was mailed on December 23, 2015

**Response:** None as of Staff Report date.

#### Subject Property:

**Expiration Date:** None

**Location:** 216 North Street

**Legal Description:** DP Hopkins Subdivision, Lot 1A, Block 3

**Frontage On:** North Street

**Neighborhood:** Downtown

**Existing Zoning:** T5 - SmartCode

**Preferred Scenario Designation:** High Intensity

**Utilities:** Adequate

**Existing Use of Property:** Vacant, previously a small engine repair shop

#### **Zoning and Land Use Pattern:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
<b>N of property</b>	T5	Parking Lot
<b>S of property</b>	T5	Bar (Zelicks)
<b>E of property</b>	T5	Bed & Breakfast (Crystal River Inn)
<b>W of property</b>	T5	Texas State University offices/ North Street Studio Salon

### **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).

### **Case Summary**

The subject property is located at 216 North Street between Hutchison Street and Hopkins Street outside the Central Business Area (CBA). The subject property was previously a small engine repair shop and is currently vacant. The proposed improvements to the site include renovations to the existing structure located towards the front of the lot to include indoor seating and a deli counter. Additionally, the site plan indicates outdoor seating towards the front of the lot with pedestrian streetscape improvements such as expanded sidewalk and street trees. Proposed improvements will be reviewed through the site plan and building permit process to ensure compliance with the SmartCode and all applicable development codes.

Proposed hours of operation are Monday – Wednesday 11 a.m. to 11 p.m., Thursday – Saturday 11 a.m. to midnight, and Sunday hours are noon – 11 p.m. The application indicates that indoor fixed seating capacity is 42 seats with 65 outdoor seats and a total gross floor area of approximately 1,586 sq.ft. Per SmartCode requirements, the applicant would be required to have 5 off-street parking spaces (3 per 1000 sq.ft). The application indicates there are approximately 20 off-street parking spaces proposed and are utilized within the adjacent parking lot. Both the adjacent parking lot and 216 North Street are owned by Katz Development LLC and shared parking between these lots is allowed and sufficient based on SmartCode requirements. The application indicates there are no entertainment facilities proposed.

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

The Police Department commented that there have been noise issues that come and go at the nearby Zelick's bar and expressed concern that another bar placed in such proximity to Zelick's and nearby residential areas may compound noise issues. There were no other comments from other departments.

### **Planning Department Analysis:**

Staff has reviewed the request for compliance with the Land Development Code and has found that the request is consistent with the policies and the general intent of the zoning district and does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic. The North Street Inc. project meets the intent of the Smartcode by bringing the service area to the property line and enhances the pedestrian streetscape.

Although the application does not indicate that entertainment facilities are proposed, staff recommends that the condition of *no live outdoor amplified music* be added to the CUP to decrease potential noise impacts. Other items that may help mitigate any potential noise impacts are that the applicant is proposing to end hours of operation at midnight and is not pursuing a Late Hours TABC license. Based upon the submitted site plan, the proposed building is buffered from the adjacent Crystal River Inn by approximately 75 feet. Any new improvements or substantial modifications to the site plan will require an amendment to the CUP and subsequent review by Staff and the Planning and Zoning Commission.

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department's standard recommendation is initial approval of the permit 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.

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. **No live outdoor amplified music shall be allowed;**
3. **The CUP shall be effective upon the issuance of the Certificate of Occupancy; and**
4. **The CUP shall be posted in the same area and manner as the Certificate of Occupancy.**

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. In evaluating the impact of the proposed conditional use on surrounding properties, the Commission should consider 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.

<b>Prepared by:</b> Andrea Villalobos	Planning Technician	12/15/15
<b>Name</b>	<b>Title</b>	<b>Date</b>

# Measurement to First Presbyterian Church

First Presbyterian Church

MARY ST

W HUTCHISON ST

NORTH ST

~ 336 ft

North Street Inc.

— Distance Measurement





216  
North Street  
210 North Street  
San Marcos, CA 93786

Katz  
Brothers

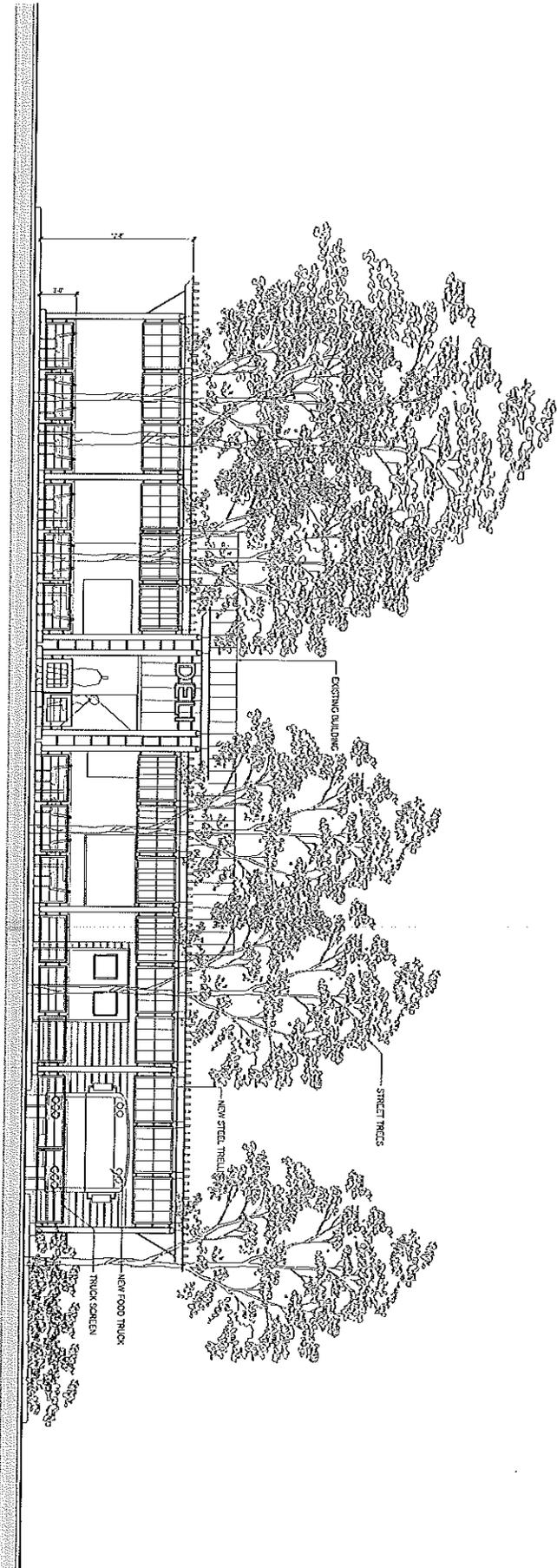
1940  
SCHEMATIC DESIGN

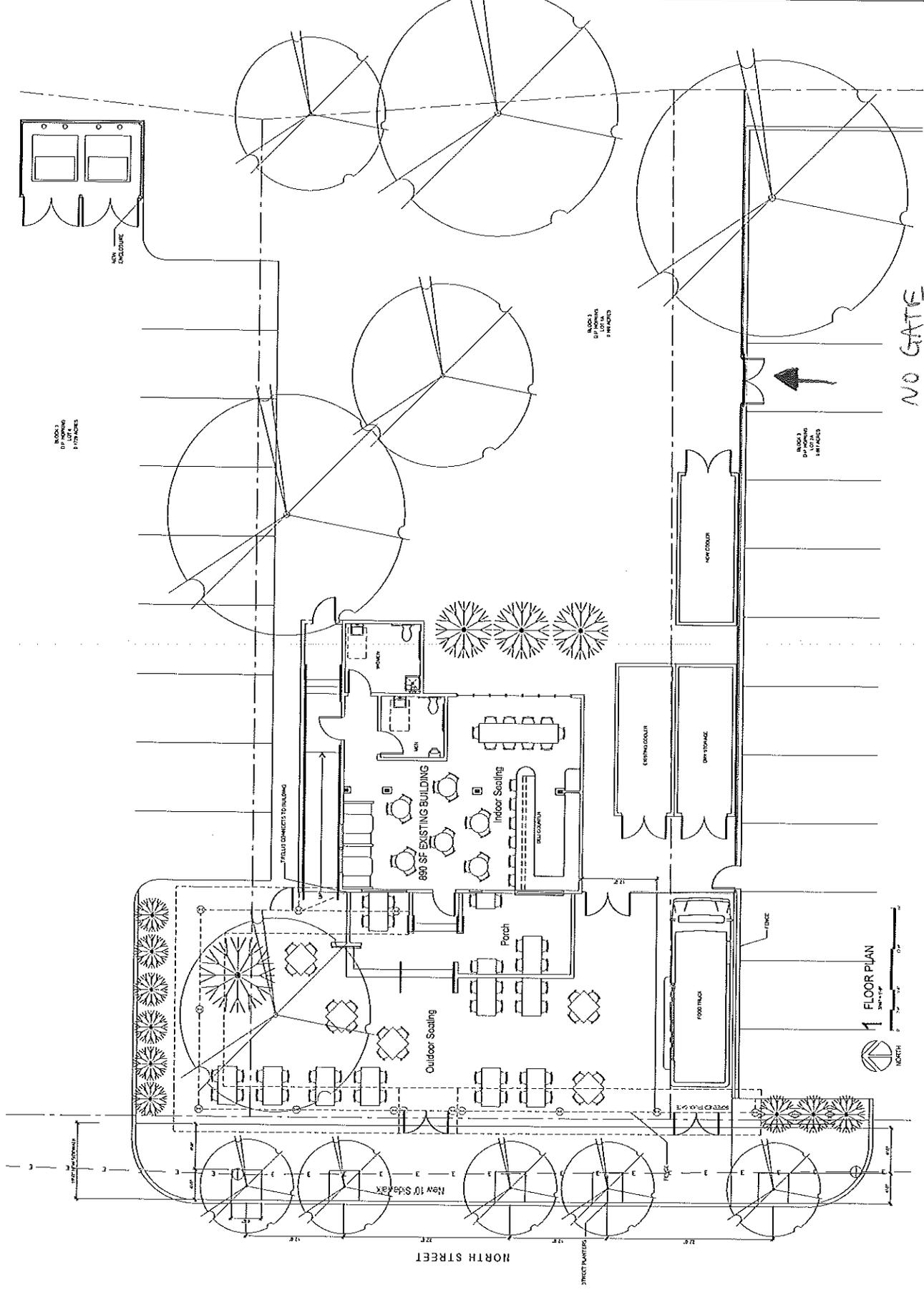
OWNER  
Katz Brothers

DATE  
17 August 2015

A4.01

↑ TRELLIS ELEVATION  
1/8" = 1'-0"





1 FLOOR PLAN  
 3/8" = 1'-0"  
 NORTH

NO GATE

SUPPLY  
 OF OPENING  
 & PARTS

NO  
 ENCLOSURE

SUPPLY  
 OF OPENING  
 & PARTS

SUPPLY  
 OF OPENING  
 & PARTS

NORTH STREET

STREET PARKING

New 10' SIDEWALK

TRAILER BARRIERS TO BUILDING

890 SF EXISTING BUILDING

Indoor Seating

Outdoor Seating

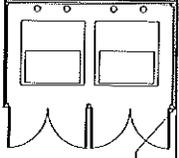
Porch

FOOD TRUCK

EXISTING STORAGE

NEW STORAGE

NEW ENTRANCE



**MARTINEZ ARCHITECTURE**  
 1000 W. UNIVERSITY AVENUE, SUITE 100  
 SAN ANTONIO, TEXAS 78205  
 TEL: 214.343.1111 FAX: 214.343.1112  
 WWW.MARTINEZARCHITECTURE.COM

216  
 North Street  
 216 North Street  
 San Antonio, TX 78206

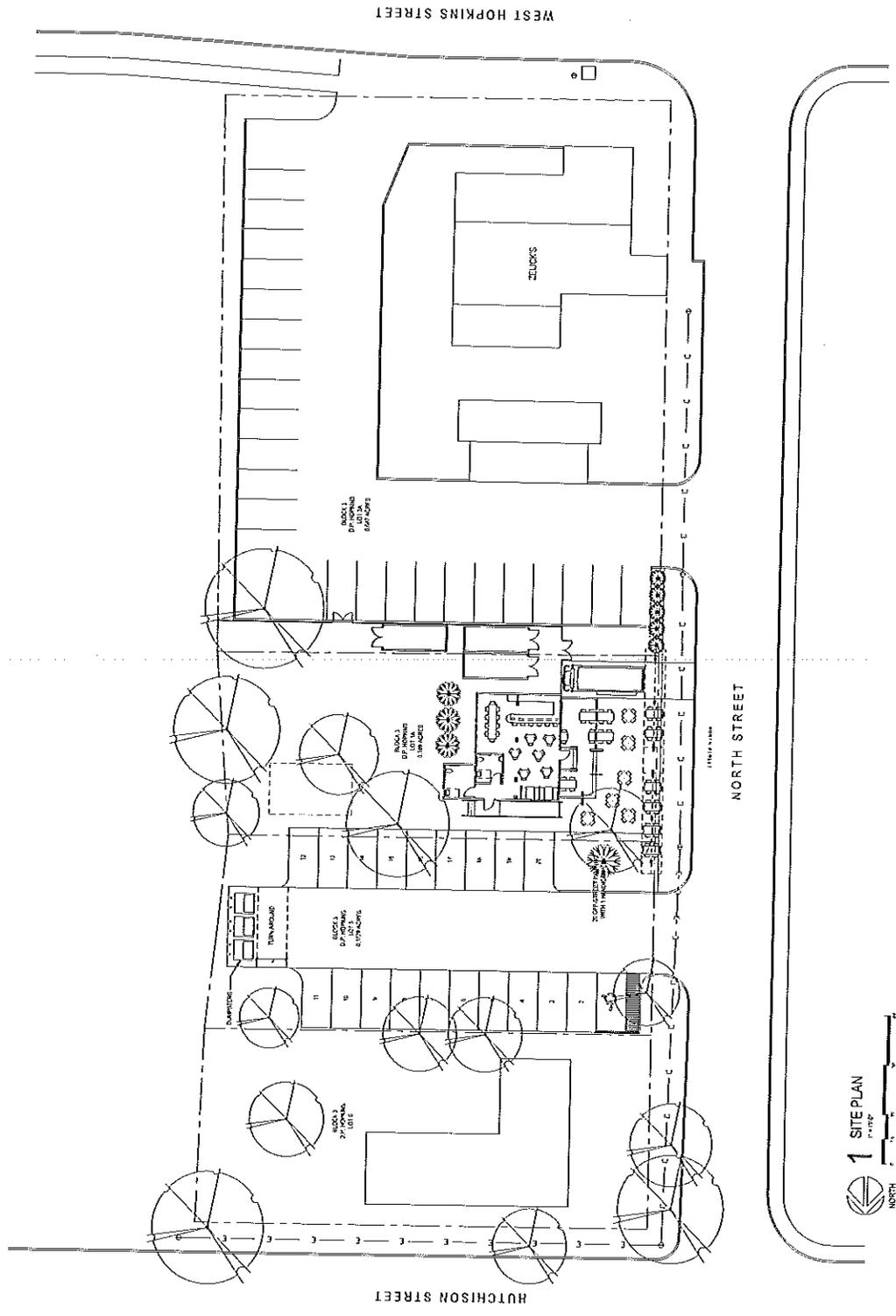
Katz  
 Brothers

1880  
 SCHEMATIC DESIGN

DATE: 25 JULY 2015  
 DRAWN BY: [REDACTED]  
 CHECKED BY: [REDACTED]  
 PROJECT NO: [REDACTED]

Site Plan  
 Exterior Elevation  
 25 July 2015

**A1.01**



**1 SITE PLAN**  
 NORTH



## Conditional Use Permit Application Checklist To Allow On-Premise Consumption of Alcoholic Beverages Outside 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> showing dimensions of property, locations and square footage of building(s), number of off-street paved parking spaces, and fences buffering residential uses. * (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 of the proposed use and its effect on surrounding properties	<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 : *(see note below)</b>			
<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 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"/>	Copy of State TABC License application	<input type="checkbox"/>	
<input type="checkbox"/>	Impervious cover or drainage issues or impacts	<input type="checkbox"/>	
<input type="checkbox"/>	Menu	<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: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Engineer    Surveyor    Architect/Planner    Owner    Agent: \_\_\_\_\_

**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: <sup>609</sup> \$600 Application fee + <sup>11</sup> \$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.*

Applicant's Signature

Printed Name:

*Chase Katz*

Date:

*8.26.15*

*To be completed by Staff:*

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

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

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

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

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: North street INC

Application is filed by:

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

Name of Individual or Entity: Chase Katz Phone Number: 832 573 7285

Mailing Address: 216 North Street San Marcos, TX

Email Address: Chase Katz@yahoo.com

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

PROPERTY

Street Address: 216 North Street Current Zoning: T5 Commercial

Legal Description: Lot 1A Block 3 Subdivision DP Hopkins #1

Tax ID Number: R 134073

Property Owner's Name: Katz Development LLC Phone Number: 281 337 6025

Address: 1205 Pin Oak Dr. Dickinson, TX 77539

BUSINESS DETAILS

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

Hours of Operation: M - ~~Wed~~ 11 - 11 TH - SAT 11 - 12 midnight Sun 12 - 11

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

Indoor Fixed Seats Capacity: 42 Outdoor Fixed Seats: 65

Gross Floor Area Including Outdoor Above-ground Decks: 1,586 Square Feet

Number of Off-Street Parking Spaces Provided: 20

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



## Legislation Text

---

**File #:** CUP-15-41, **Version:** 1

---

**AGENDA CAPTION:**

CUP-15-41 (Urban Bricks Pizza) Hold a public hearing and consider a request by James C. MacKenzie, on behalf of Urban Bricks Pizza, for a new Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 420 University Drive. (A. Villalobos)

**Meeting date:** January 12, 2016

**Department:** Planning and Development Services

**Funds Required:** n/a

**Account Number:** n/a

**Funds Available:** n/a

**Account Name:** n/a

**CITY COUNCIL GOAL:** n/a

**COMPREHENSIVE PLAN ELEMENT(s):** n/a

**BACKGROUND:**

The subject property is located at 420 University Drive at the corner of North CM Allen Parkway and University Drive, outside the Central Business Area (CBA). The proposed Urban Bricks Pizza will occupy the entire building and include improvements to the site and building. Proposed renovations include the construction of an outdoor seating area built towards the front property line at the corner of University Drive and North CM Allen Parkway.

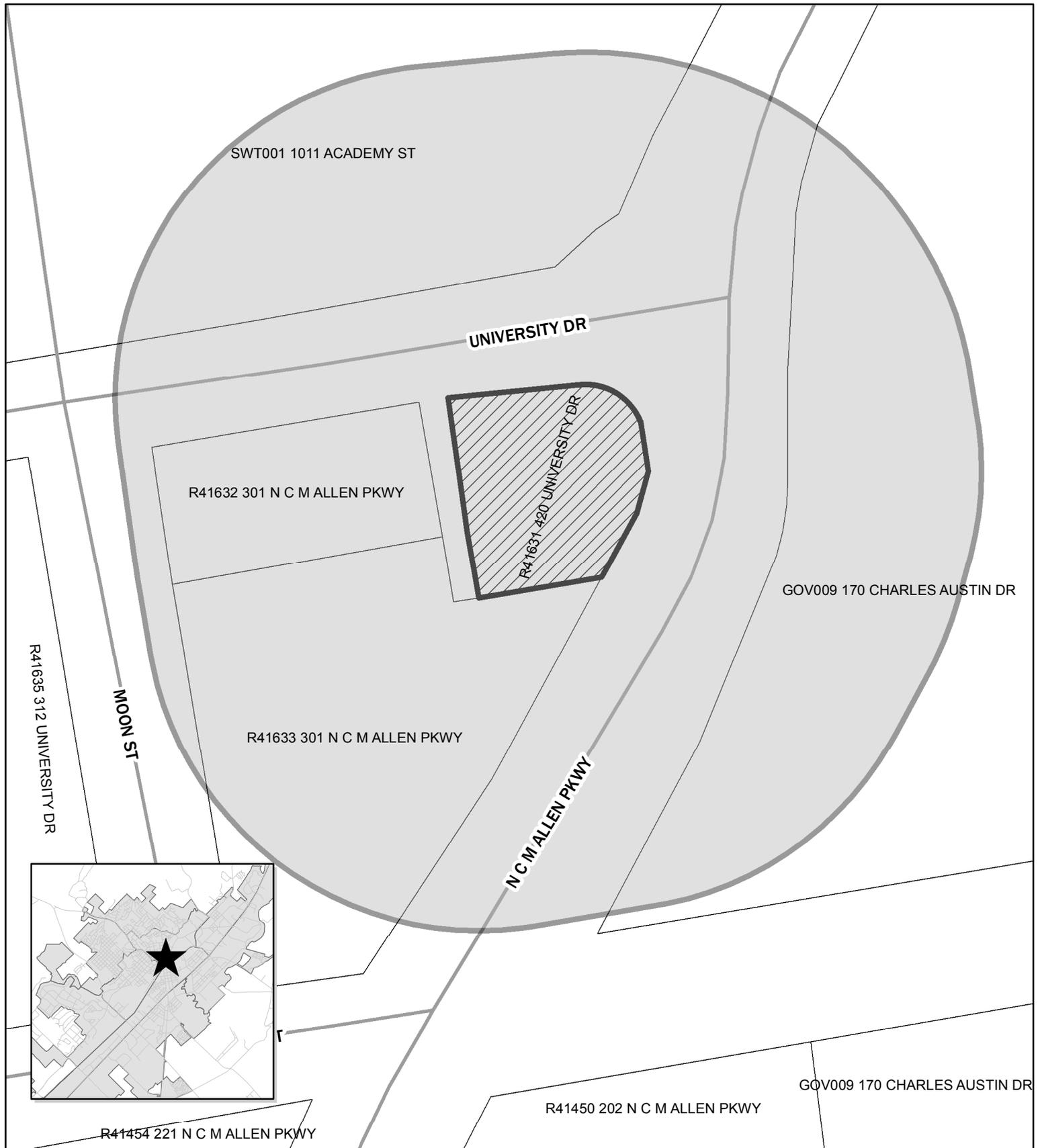
Proposed hours of operation are 11 a.m. to midnight, Monday - Sunday with indoor fixed seating capacity at 43 seats with 56 outdoor seats and a total gross floor area of approximately 2,995 sq.ft. The application indicates that parking is sufficient with approximately 16 existing off-street parking spaces. The applicant has stated that they would like the ability to have live music entertainment on occasion both indoors or outdoors.

The proposed Urban Bricks Pizza meets the intent of the SmartCode by bringing the service and dining area to the property line thus activating and enhancing the pedestrian streetscape. The subject property is not located in close proximity to any residential uses or districts and the restaurant is not pursuing a late hours TABC Permit and will close operations at midnight. The outdoor dining area is facing the street intersection allowing the building to serve as a buffer between the dining area and the adjacent properties at the rear. Staff does not see any concerns with occasional live music entertainment, however, the establishment is still

subject to applicable noise requirements and codes pertaining to noise allowances.

Staff has reviewed the request for compliance with the Land Development Code 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. The CUP shall be effective upon the issuance of the Certificate of Occupancy; and**
- 3. The CUP shall be posted in the same area and manner as the Certificate of Occupancy.**



**CUP-15-41**  
**Urban Bricks Pizza**  
**420 University Drive**  
**Map Date: 11/24/2015**

**Legend**

-  200ft Buffer
-  420 University Drive



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-15-41**  
**Urban Bricks Pizza**  
**420 University Drive**  
**Map Date: 11/24/2015**

**Legend**

 420 University

0 37.5 75 150 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-15-41

## Conditional Use Permit

### Urban Bricks Pizza

### 420 University Drive



**Applicant Information:**

**Applicant:** James C. MacKenzie on behalf of Urban Bricks Pizza

**Mailing Address:** 8711 Windy Mist  
San Antonio, TX 78254

**Property Owner:** Shane Fraser, Leghorn Investments  
102 Wonder World Drive, Ste 100  
San Marcos, TX 78666-6076

**Applicant Request:** Request for a new Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 420 University Drive.

**Public Hearing Notice:** Public hearing notification was mailed on December 23, 2015

**Response:** None as of Staff Report date.

**Subject Property:**

**Expiration Date:** None

**Location:** 420 University Drive

**Legal Description:** Original Town of San Marcos, Block 21, Lot 4

**Frontage On:** North CM Allen Parkway & University Drive

**Neighborhood:** Downtown

**Existing Zoning:** T5 - SmartCode

**Preferred Scenario Designation:** High Intensity

**Utilities:** Adequate

**Existing Use of Property:** Restaurant, Josie's Yogurt & Moe Better Burgers

**Zoning and Land Use Pattern:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
<b>N of property</b>	P	Texas State University
<b>S of property</b>	T5	Broadway Bank
<b>E of property</b>	P	Texas State University
<b>W of property</b>	T5	Broadway Bank

### **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).

### **Case Summary**

The subject property is located at 420 University Drive at the corner of North CM Allen Parkway and University Drive, outside the Central Business Area (CBA). The subject property is currently occupied by two restaurants, Josie's Yogurt and Moe Better Burgers. The proposed Urban Bricks Pizza will occupy the entire building and include improvements to the site and building. Proposed renovations to the building include the construction of an outdoor seating area built towards the front property line at the corner of University Drive and North CM Allen Parkway. Proposed improvements will be reviewed through the site plan and building permit process to ensure compliance with the SmartCode and all applicable development codes.

Proposed hours of operation are 11 a.m. to midnight, Monday – Sunday. The application indicates that indoor fixed seating capacity is 43 seats with 56 outdoor seats and a total gross floor area of approximately 2,995 sq.ft. Per SmartCode requirements, the applicant would be required to have 9 off-street parking spaces (3/1000 sq.ft.). The application indicates that parking is sufficient with approximately 16 existing off-street parking spaces. The applicant has stated that they would like the ability to have live music entertainment on occasion both indoors and outdoors.

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

The Police Department did not express any concerns regarding the establishment and there have been no other comments from other departments.

### **Planning Department Analysis:**

Staff has reviewed the request for compliance with the Land Development Code and has found that the request is consistent with the policies and the general intent of the zoning district and does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic. The proposed Urban Bricks Pizza meets the intent of the SmartCode by bringing the service and dining area to the property line thus activating and enhancing the pedestrian streetscape.

The subject property is not located in close proximity to any residential uses or districts and the restaurant is not pursuing a late hours TABC Permit and will close operations at midnight. The outdoor dining area is facing the street intersection allowing the building to serve as a buffer between the dining area and the adjacent properties at the rear. Staff does not see any concerns with occasional live music entertainment. The establishment is still subject to applicable noise requirements and codes pertaining to noise allowances. Additionally, the Commission does have the discretion to add any conditions they deem necessary.

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department's standard recommendation is initial approval of the permit 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.

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. **The CUP shall be effective upon the issuance of the Certificate of Occupancy; and**
3. **The CUP shall be posted in the same area and manner as the Certificate of Occupancy.**

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. In evaluating the impact of the proposed conditional use on surrounding properties, the Commission should consider 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.

<b>Prepared by:</b> Andrea Villalobos	Planning Technician	12/28/15
<b>Name</b>	<b>Title</b>	<b>Date</b>



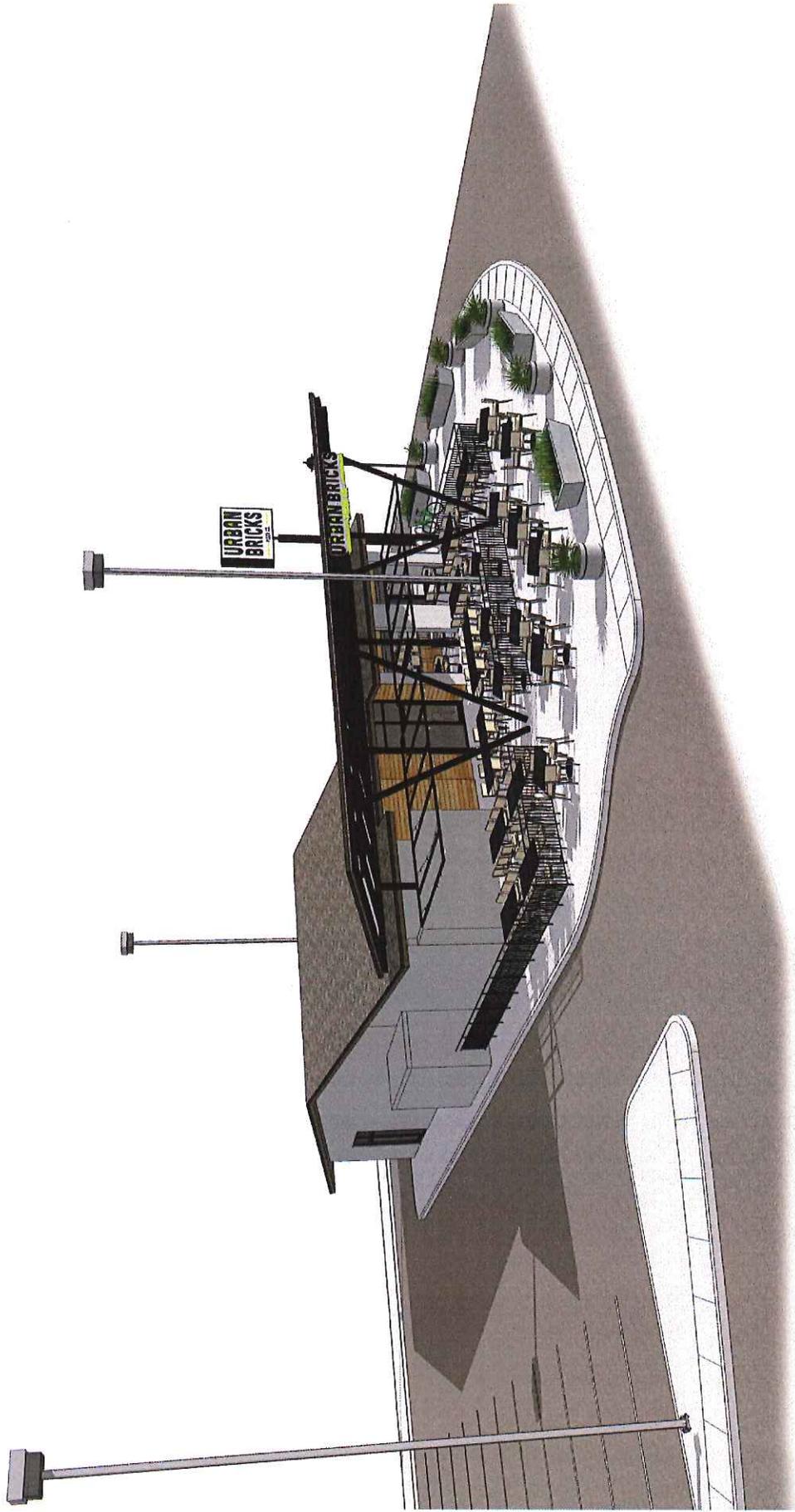
**URBAN BRICKS**

SAN MARCOS, TX

**VIEW 2**

project #: 15.207  
11.18.15

**A2.1**



WHAT MAKES A  
**URBAN**  
**BRICKS**  
PIZZA CO.

DIFFERENT?

WE'RE REALLY, REALLY INTO PIZZA - AND WE LIKE OUR FOOD FAST & FRESH. IT TURNS OUT WE'RE NOT ALONE.

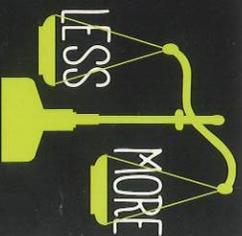
LOOK, WE GET IT; AMERICANS HAVE STRONG OPINIONS ABOUT PIZZA. NEW YORKERS TREASURE THEIR EXTRA LARGE SLICES AND CHICAGOANS SWEAR BY THEIR DEEP DISH PIES.

THAT'S WHERE URBAN BRICKS PIZZA WAS BORN, WE BRING THE AUTHENTIC, NEAPOLITAN DELICACY TO YOUR AMERICAN TABLE WITH OUR ALL AMERICAN FAST BASED ATTITUDE! OUR DOUGH IS MADE IN-HOUSE AND WE'VE SOURCED THE BADDEST, HOTTEST OWENS STRAIGHT FROM ITALY!

FOR TOPPINGS - IT'S ALL UP TO YOU! KEEP IT SIMPLE OR GET CARRIED AWAY. CUSTOMIZED PIZZA OR A SALAD, WE'VE GOT THE FRESHEST VEGGIES, MEATS, AND CHEESES TO CHOOSE FROM!

AND WE DELIVER  
SO, WHAT ARE YOU WAITING FOR?  
IT'S PIZZA TIME, FRIENDS!

PRESERVE THE  
**BALANCE**



CHEF RECOMMENDS 2-3 TOPPINGS IS BEST

210-699-3333

THANKS FOR CHOOSING URBAN BRICKS PIZZA  
WWW.URBANBRICKSPIZZA.COM



**BUILD YOUR OWN PIZZA**

STEP 1: PICK YOUR CRUST  
Original, Wheat, Gluten Free (+ \$2)

**\$7.99**

STEP 2: PICK YOUR SAUCE  
Red, Spicy Red, White, Garlic Olive Oil

STEP 3: PICK YOUR CHEESE

Gorgonzola, Feta, Shredded Mozzarella, Ricotta, Parmesan & Vegan Cheese (+ \$1)

*Trickily Shredded  
In Heaven!*

STEP 4: PICK YOUR TOPPINGS

Check out our Fresh Topping Bar!

STEP 5: PICK YOUR DRIZZLE

Pesto, Virgin Olive Oil, BBQ, Sriracha, Ranch & Roasted Sun-Dried Tomato

**SAY CHEESE!**  
Red Sauce,  
Mozzarella  
**\$4.99**

**SALADS** **\$5.99**

**GOODIES** **\$4.99**

BUILD YOUR OWN SALAD

NUTELLA BANANA

GREEK SALAD

NUTELLA PEANUT BUTTER

CESAR SALAD

CINNAMON PIE

ALMOND BANANA SALAD

GARLIC DOUGH STICKS

add meat to any salad + \$2

*Side Salad  
\$3.99*

**DRAFT BEER & WINE**

**SOFT DRINKS**

- Doc XX
- Bud Light
- Blue Moon
- Shiner
- Seasonal Draft
- Seasonal Local

**\$4.99**

**\$1.99**

House Red Wine

**\$4.99**

**\$2.99**

House White Wine

LOCATED AT THE RIM



17603 La Cantera Pkwy. #119  
San Antonio, Tx 78257  
210-699-3333  
www.urbanbrickspizza.com

09/15



## Conditional Use Permit Application Checklist To Allow On-Premise Consumption of Alcoholic Beverages Outside 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 checked="" type="checkbox"/>	A pre-application conference with staff is recommended	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	A completed application for Conditional Use Permit and required fees. * (see note below)	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	A site plan <i>drawn to scale</i> showing dimensions of property, locations and square footage of building(s), number of off-street paved parking spaces, and fences buffering residential uses. * (see note below)	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Interior layout showing all proposed seating; kitchen and bar areas; and restroom facilities	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	All information and illustrations necessary to show the nature of the proposed use and its effect on surrounding properties	<input type="checkbox"/>	
<input checked="" 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 : *(see note below)</b>			
<input checked="" type="checkbox"/>	Landscaping and/or fencing of yards and setback areas and proposed changes	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Design of ingress and egress	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Off-street loading facilities	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Height of all structures	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Proposed uses	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	The location and types of all signs	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Copy of State TABC License application	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Impervious cover or drainage issues or impacts	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Menu	<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: James C. MacKenzie

Date: 11-13-15

Print Name: \_\_\_\_\_

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

*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: URBAN BRICKS PIZZA

Application is filed by:  
 Individual  Partnership  Corporation  Other: LLC MANAGING ~~PARTNER~~ MEMBER

Name of Individual or Entity: JIM MACKENZIE Phone Number: 210-545-6200

Mailing Address: 8711 WINDY MIST SAN ANTONIO, TX. 78254

Email Address: PRESTIGE REALTY @ SATX. RR. COM

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

**PROPERTY**  
Street Address: 420 UNIVERSITY DR. <sup>SAN 78666</sup> MARCOS Current Zoning: F1 COMMERCIAL - Real PROPERTY

Legal Description: Lot 4 & PT of 3 Block 21 Subdivision NA

Tax ID Number: R 41631

Property Owner's Name: SHANE FRASER Phone Number: 512-557-7000

Address: 102 WONDER WORLD DR #100 SAN MARCOS, TX 78666-6076

**BUSINESS DETAILS**

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

Hours of Operation: 11:00 AM 12:00 pm

Type of Entertainment Facilities: RESTAURANT

Indoor Fixed Seats Capacity: 43 Outdoor Fixed Seats: 56

Gross Floor Area Including Outdoor Above-ground Decks: 2995 Square Feet

Number of Off-Street Parking Spaces Provided: 16

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

09/12

URBAN BRICKS PIZZA

**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: \$609 Application fee + \$11.00 Technology Fee (non-refundable)
- Mixed Beverage Permit: \$609 Application fee + \$11.00 Technology Fee (non-refundable)
- Change to Existing Permit/Renewal: \$305.00 fee + \$11.00 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.

James C. Mackenzie  
Applicant's Signature

Printed Name: JAMES C. MACKENZIE Date: 11-13-15

*To be completed by Staff:*

Meeting Date: \_\_\_\_\_ Application Deadline: \_\_\_\_\_  
Accepted By: \_\_\_\_\_ Date: \_\_\_\_\_

## Villalobos, Andrea

---

**From:** Shane Fraser <shane@txsubs.com>  
**Sent:** Monday, December 21, 2015 12:22 PM  
**To:** Villalobos, Andrea  
**Cc:** prestigerealty@satx.rr.com  
**Subject:** 420 University Dr

Andre:

We are ok with TSU Pizza LLC / Urban Bricks Pizza getting a Conditional Use Permit to sell beer, wine and alcohol on premise. If you need anything else from me or I can help in any way, please do not hesitate to contact me.

Thanks:

Shane Fraser

Member

Leghorn Investments, LLC



## Legislation Text

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**File #:** CUP-15-42, **Version:** 1

---

**AGENDA CAPTION:**

CUP-15-42 (Pollo Tropical) Hold a public hearing and consider a request by Brad Vickers, on behalf of Fiesta Restaurant Group, Inc. for a Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 1439 North IH-35. (W. Parrish)

**Meeting date:** January 12, 2016

**Department:** Planning and Development Services

**Funds Required:** NA

**Account Number:** NA

**Funds Available:** NA

**Account Name:** NA

**CITY COUNCIL GOAL:** NA

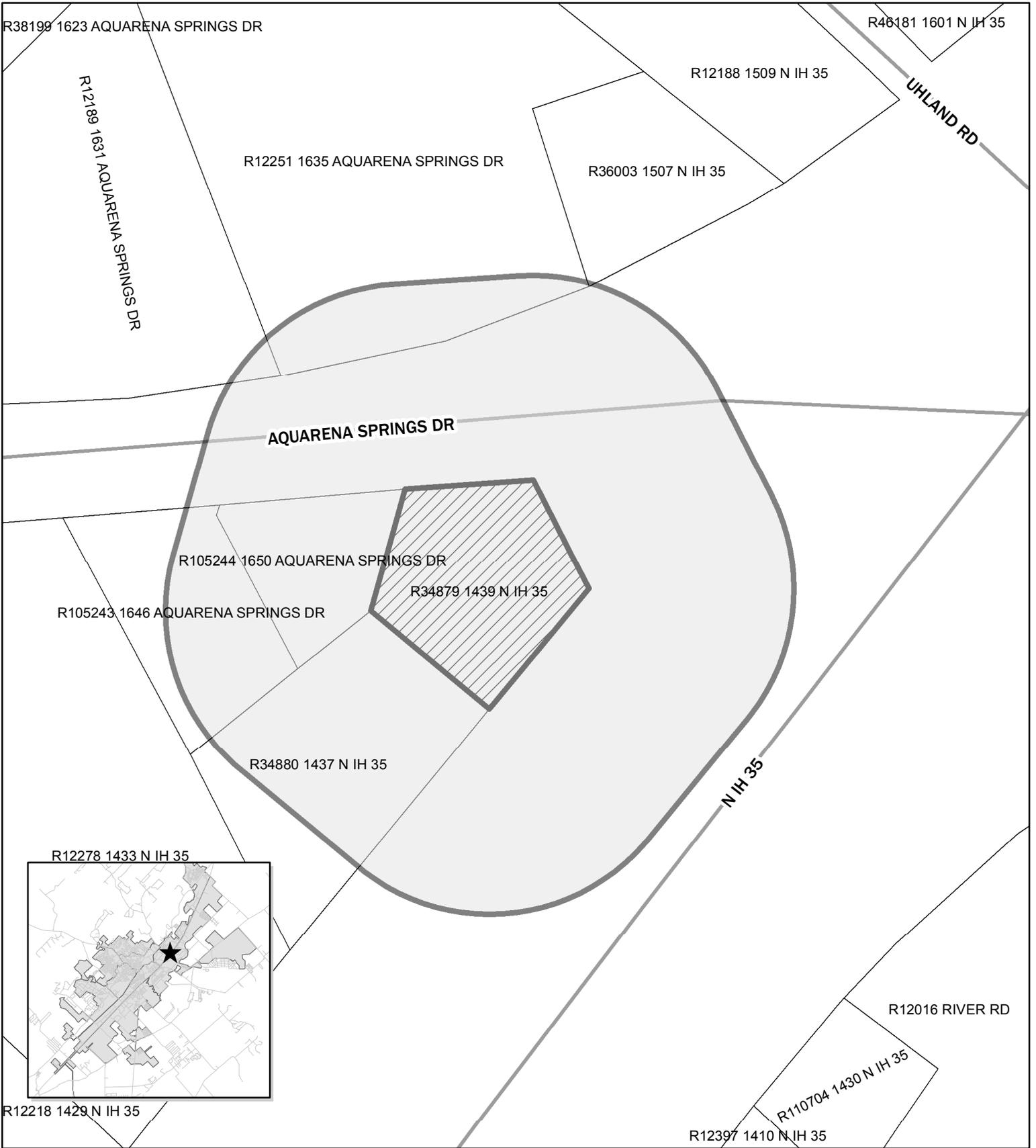
**COMPREHENSIVE PLAN ELEMENT(s):** NA

**BACKGROUND:**

Pollo Tropical is a fast food restaurant that specializes in Caribbean recipes. In addition to food sales, the applicant proposes to sell beer and mixed drinks. The proposed restaurant is 3,548 square feet and seats 90 people. The applicant is proposing 62 parking spaces. Hours of operation for the restaurant are 10:30 a.m. to 12:00 a.m., however the applicant has stated that alcohol will only be served from 11 a.m. to 11:30 p.m. The applicant has also stated that there will be no drink sales through the drive-thru and no carry out drinks.

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

- 1. The permit shall be valid for one (1) year, 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.**

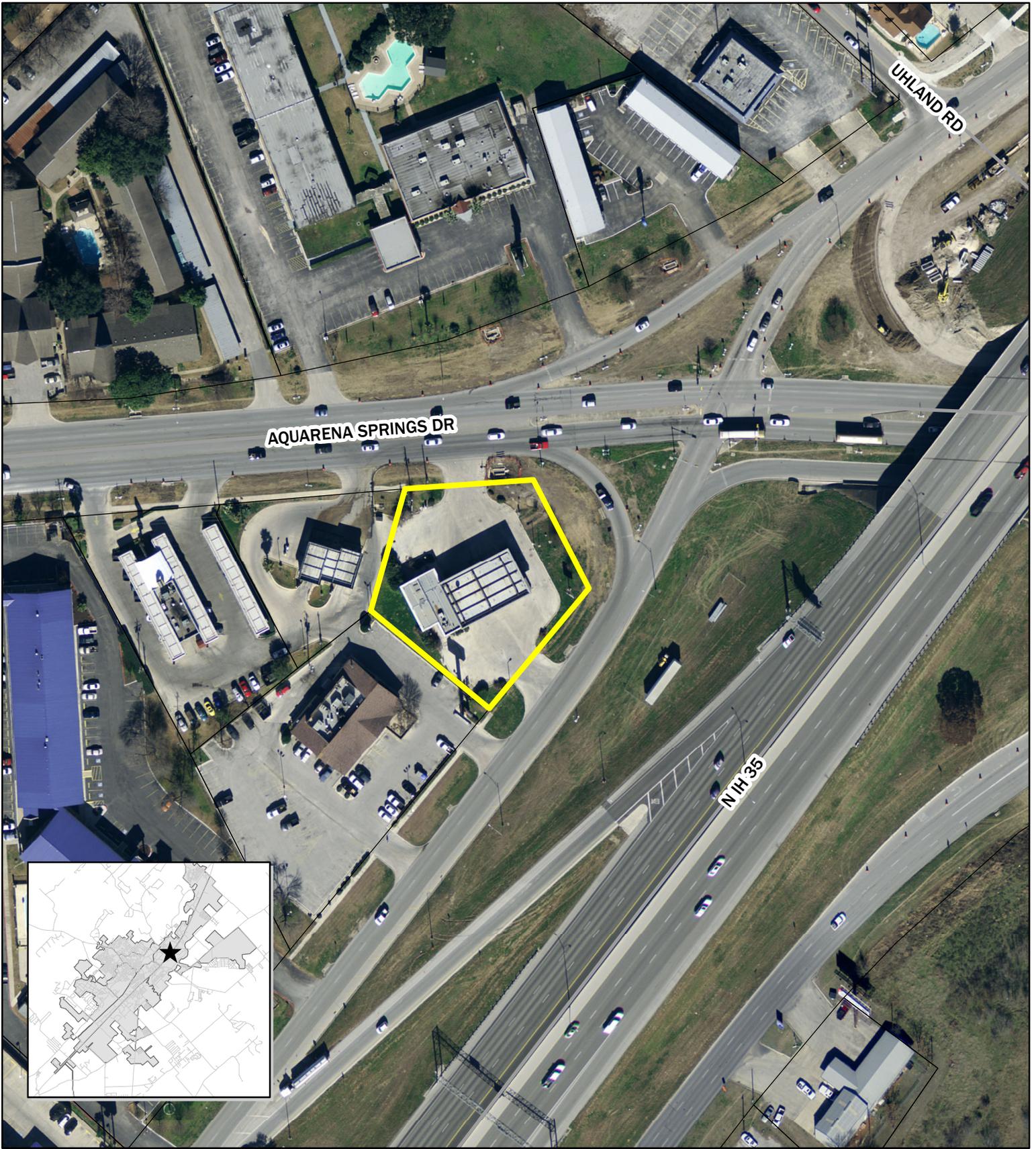


**CUP-15-42**  
**Pollo Tropical**  
**1439 N IH 35**  
**Map Date: 12/22/2015**

-  200ft Buffer
-  Site Location



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-15-42**  
**Pollo Tropical**  
**1439 N IH 35**  
**Map Date: 12/23/2015**

 Site Location



0 100 200 400 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-15-42  
 Conditional Use Permit  
 Pollo Tropical  
 1439 North IH-35**



**Applicant Information:**

Applicant: Fiesta Restaurant Group, Inc  
 8970 Tesoro Drive  
 San Antonio, TX 78217

Property Owner: SP Homes Inc & BW Bowden Properties  
 1503 Post Road  
 San Marcos, TX 78666

Applicant Request: Request for a new Conditional Use Permit (CUP) to allow the on-premise consumption of mixed beverages.

Notification: Public hearing notification mailed on December 23, 2015

Response: None as of Staff Report Date

**Subject Property:**

Location: 1439 North IH-35

Legal Description: Lot 1 Loop 82 Subdivision

Frontage On: IH 35 and Aquarena Springs

Neighborhood: Midtown

Existing Zoning: General Commercial (GC)

Utilities: Adequate

Existing Use of Property: Vacant gas station

Zoning and Land Use:

	<b>Current Zoning</b>	<b>Existing Land Use</b>
<b>N of Property</b>	GC	Motel
<b>S of Property</b>	GC	Fast Food Restaurant
<b>E of Property</b>	GC	I-35/Vacant
<b>W of Property</b>	GC	Fast Food Restaurant

### **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.

Under Section 4.3.4.2 of the LDC, 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. There is no church or school within 1,000 feet.

This location is also outside the boundary of the Central Business Area (CBA) and is therefore not subject to the additional requirements in the CBA.

### **Case Summary**

Pollo Tropical is a fast food restaurant that specializes in Caribbean recipes. In addition to food sales, the applicant proposes to sell beer and mixed drinks. The proposed restaurant is 3,548 square feet and seats 90 people. The applicant is proposing 62 parking spaces, which exceeds the number of parking spaces required by the Land Development Code. Hours of operation for the restaurant are 10:30 a.m. to 12 a.m., however the applicant has stated that alcohol will only be served from 11 a.m. to 11:30 p.m. The applicant has also stated that there will be no drink sales through the drive-thru and no carry out drinks.

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

There have been no comments or concerns from other departments. There have been no other code or Police Department violations at the subject property.

### **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.

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department's standard recommendation is initial approval of the permit 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.

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

1. **The permit shall be valid for one (1) year, 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.**

**Attachments:**

- Site plan
- Menu
- Application

**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 Comprehensive 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

December 18, 2015

---

**Name**

**Title**

**Date**



## Kids Meals

- Choose One: **\$4.99**
- Filled Hamstick & Thigh w/ Side
  - Rice Bowl w/ Chicken
  - Mashed Potato Bowl
  - Mac & Cheese

SERVED WITH REGULAR FOUNTAIN DRINK AND CUPCAKE.

## Desserts

- Banana Cheesecake **\$2.99**
- Banana Bar **99c**
- Fresh Leeches **\$2.19**

## Drinks

- Tropical Breeze **REGULAR \$1.89 LARGES \$2.09**
  - Mango Peach
  - Superfruit Punch **\$2.19**
  - Rum Punch **\$2.50**
  - Refrescos
- 
- Fountain Drinks
  - Mango Iced Tea (sweet)
  - Fresh Brewed Tea (sweet or unsweet)
  - Bottled Water **\$1.99**
  - Coconut Water **\$2.09**
  - Bottled Beer **\$2.95**
  - Cuba Libre **\$3.50**

# WE Cater!

Call 1-856-763-7636  
to place your order today!

### Package Deals

All packages include water or Power Flow 30 Minute Blast or Blast Blast Pack, Soda and choice of sides.

- Classic Pulla**
  - 15 People **\$105**
  - 25 People **\$157**
  - 50 People **\$269**
- Power Flow**
  - 15 People **\$116**
  - 25 People **\$172**
  - 50 People **\$299**
- Classic Pulla & Mega Blast Pack**
  - 15 People **\$140**
  - 25 People **\$207**
  - 50 People **\$362**
- Power Flow & Mega Blast Pack**
  - 15 People **\$149**
  - 25 People **\$222**
  - 50 People **\$392**
- Classic Pulla & Latin Fusion Deal**
  - 15 People **\$170**
  - 25 People **\$262**
  - 50 People **\$460**
- Power Flow & Latin Fusion Deal**
  - 15 People **\$176**
  - 25 People **\$275**
  - 50 People **\$494**
- Power Blast Pack Deal**
  - 15 People **\$138**
  - 25 People **\$205**
  - 50 People **\$360**
- Dynamic Four Fun Topology® in 5 easy steps**
  - 15 People **\$87**
  - 25 People **\$140**
  - 50 People **\$240**
- 1. PUNCH ONE**
  - Chicken
  - White Rice
  - Fried Sweet Potatoes
- 2. PICK UP**
  - Black Beans
  - Red Beans
  - Fresh Avocado
  - Cilantro Sauce
  - Curry Mustard
  - Avocado Salsa
  - Salsa
  - Served Potatoes
- 3. PICK ONE**
  - Fresh Avocado
  - Cilantro Sauce
  - Curry Mustard
  - Avocado Salsa
  - Salsa
- 4. TOP IT OFF (Pick THREE)**
  - Avocado Salsa
  - Salsa
  - Peppers & Onions
  - Served Potatoes

### Island Wrap Platter

Any combine or of 20 wraps.

**\$65**

Chances from Chicken Breast, Grilled Pineapple

### Sandwich Platter

Any combination of 21 sandwiches.

**\$73**

Chances from Chicken Breast, Classic Chicken, Bacon BBQ Pork

### Bottled Wings Platter

25 Wings **\$19** 50 Wings **\$33**

### Desserts

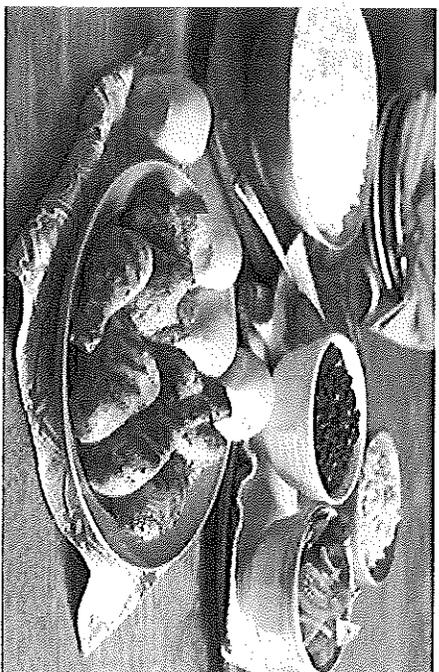
- Banana Cheesecake (serves 8) **\$16**
- Banana Bars (serves 15) **\$15**

### Refreshments

Homemade Iced Tea (Sweet), Fresh Brewed Tea (Sweet or Unsweet), Minute Tapioca Lemonade, Powerade®, Hot Fruit Punch **\$4.99** Per 50oz

Catering prices effective January 5, 2015

For a complete catering menu, please visit us at [POLOTROPICAL.COM](http://POLOTROPICAL.COM)



# MENU

[POLOTROPICAL.COM](http://POLOTROPICAL.COM)



Sign up for PULLA REWARDS® and receive coupons and other offers from polotropical.com



## Platters

Served with Sugarcane Roll, White Heart Only add \$0.30

### Flame—Grilled Citrus Chicken

Slow marinated to perfection in a secret blend of fruit juices & Caribbean spices. Hormone & trans-fat free.



1/4 Chicken  
ONE SIDE \$5.99  
TWO SIDES \$5.99

1/2 Chicken  
ONE SIDE \$6.99  
TWO SIDES \$7.99

Boneless Chicken Breasts

ONE SIDE \$6.99  
TWO SIDES \$7.99

Grilled Tropical Wings (8)

ONE SIDE \$6.99  
TWO SIDES \$7.99

#### Mojo Roast Pork

Slow-roasted Caribbean classic with a blend of tangy orange, garlic, & island spices.



ONE SIDE \$6.79  
TWO SIDES \$7.59

#### Calypso Beef

Pan seared prime rib topped with a savory steak sauce & marinated red onions.



ONE SIDE \$7.99  
TWO SIDES \$8.99

#### 1/4 Chicken Frios

Pick Two: Mojo Roast Pork, Calypso Beef, or Wings. Includes 2 sides.



\$9.99

## Salads & Starters



Chicken Quesadilla Salad \$6.99



Sweet Plantains

\$2.39

REGULAR LARGE



Chicken Caesar Salad \$6.99

Caribbean Chicken Soup

\$2.39

CUP BOWL

Grilled Tropical Wings (5)

\$3.99

## Sides

Choose any side(s) with meal.

- Rice (White, Brown or Yellow w/ Veggies) & Beans (Red or Black)
- Balsamic Tomatoes
- Caesar Salad
- Yuca w/ Garlic Sauce
- Caribbean Corn Soufflé
- Mashed Potatoes w/ Gravy
- Green Beans
- Kernel Corn
- Mac & Cheese

\$2.49

REGULAR

\$3.69

LARGE

• Waffle fries

\$1.99

REGULAR

\$3.29

LARGE

## Wraps & Sandwiches



Chicken Caesar

\$5.79

WRAP COMBO\* ONLY

Chicken Quesadilla

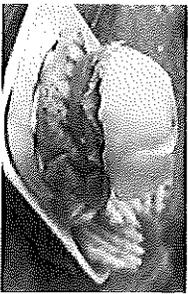
\$3.79

WRAP COMBO\* SANDWICH ONLY

Calypso Beef

\$6.19

WRAP COMBO\* ONLY



Chipotle Chicken

\$6.39

WRAP COMBO\* SANDWICH ONLY

Classic Chicken

\$3.79

WRAP COMBO\* SANDWICH ONLY

Guava BBQ Pork

\$3.79

WRAP COMBO\* SANDWICH ONLY

## CREATE YOUR OWN TROPICHOOP®

1 Choose One  
Chicken, Mojo Roast Pork,  
Calypso Beef, Vegetarian



2 Add Rice or Veggies  
White Rice, Brown Rice, 1/2 Rice-1/2 lettuce,  
Yellow Rice w/ Vegetables, Lettuce, Mashed Potatoes & Gravy

3 Top It  
Red or Black Beans, Kernel Corn, Tomatoes, Peppers & Onions,  
Sautéed Onions

4 Sauce It Up at Our Saucing Island

Add a regular fountain drink for \$1\*

For Calypso Beef add an \$0.75 reg. 2oz

\$5.99

\$6.79

SMALL

REGULAR

## Family Meals

1 Whole Chicken,  
Sweet Plantains  
& 4 Balls

\$12.99

FEEDS 3-4

2 Add:  
1/2 Chicken

\$5.50

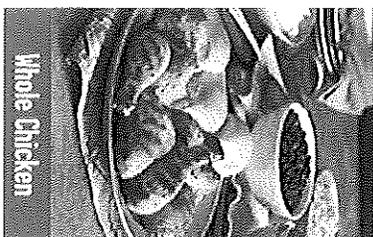
EACH

2 Boneless Chicken Breasts  
Mojo Roast Pork  
8 Grilled Tropical Wings  
Calypso Beef

3 Add Sides

\$2.95

EACH



Whole Chicken



LITE TropicHOOP®  
Grilled Chicken, 1/2 Brown Rice, 1/2 Hamline Lettuce Onions & Peppers,  
Diced Tomatoes • 340 calories

\$5.99

LITE Citrus Salad & 1/4 Chicken  
with Mango Poppy Seed Dressing • 510 calories

\$5.19

LITE Citrus Chicken Salad  
with Mango Poppy Seed Dressing • 360 calories

\$6.99

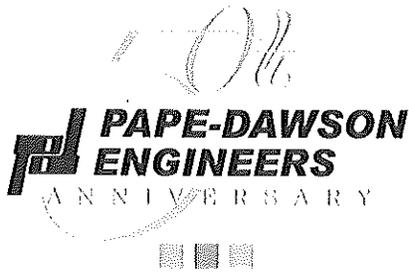
LITE Chicken Caesar Wrap & Caribbean  
Chicken Soup • 480 calories

\$5.19

LITE Grilled Chicken Breast  
Yellow Rice w/ Vegetables & Balsamic Tomatoes • 480 calories

\$5.19

\*Combos come with your choice of any one regular size, cup of soup, or Tropical Favorite. Plus regular drink.



# Transmittal

**TO:** City of San Marcos  
 Planning and Development Services  
 630 East Hopkins  
 San Marcos, TX 78666

**DATE:** 11/23/15

**ATTN:** Andrea Villalobos

**PROJECT NO.:** 8781-03

**FROM:** Jeannie Harrington

**RE:** Pollo Tropical-IH35 at Aquarena Springs

Quantity	Description
1	Conditional Use Permit Application Package
3	Site Plan (Full-Size)

*If enclosures are not as noted, kindly notify us at once.*

For Approval     
  For Your Use     
  As Requested     
  For Review and Comment

**COMMENTS:**

*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: Pollo Tropical

Application is filed by:

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

Fiesta Restaurant Group, Inc.

Name of Individual or Entity: ATTN: Brad Vickers Phone Number: (210) 283-5511Mailing Address: 8918 Tesoro Dr, San Antonio, TX 78217Email Address: bvickers@frgi.comType of Permit Requested:  Mixed Beverage  Beer & Wine  Other: \_\_\_\_\_**PROPERTY**Street Address: 1439 N IH-35 Current Zoning: GCLegal Description: Lot 1 Block \_\_\_\_\_ Subdivision Loop 82 Business ParkTax ID Number: R 34879

SP Homes, Inc &amp;

Property Owner's Name: BW Bowden Properties, Inc Phone Number: \_\_\_\_\_Address: 1503 Post Rd, San Marcos, TX 78666**BUSINESS DETAILS**Primary Business Use:  Restaurant  Bar  Other: \_\_\_\_\_Hours of Operation: 10:30 a.m.-12:00 a.m. 7 days a weekType of Entertainment Facilities: N/AIndoor Fixed Seats Capacity: 90 Outdoor Fixed Seats: 0Gross Floor Area Including Outdoor Above-ground Decks: 3,548 Square FeetNumber of Off-Street Parking Spaces Provided: 62Located more than 300 feet from church, public school, hospital, low density residential?  Y  N

09/12

**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:** \$609 Application fee + \$11.00 Technology Fee (non-refundable)
- **Mixed Beverage Permit:** \$609 Application fee + \$11.00 Technology Fee (non-refundable)
- **Change to Existing Permit/Renewal:** \$305.00 fee + \$11.00 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: Robert O'Farrell Date: 11-23-15

**To be completed by Staff:**

Meeting Date: \_\_\_\_\_ Application Deadline: \_\_\_\_\_  
Accepted By: \_\_\_\_\_ Date: \_\_\_\_\_



Legislation Text

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**File #:** CUP-15-43, **Version:** 1

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**AGENDA CAPTION:**

CUP-15-43 (Buzz Mill Coffee) Hold a public hearing and consider a request by Jason Sabala for a Restricted Conditional Use Permit for the sale of mixed beverages for on-premise consumption at 194 South Guadalupe Street. (W. Parrish)

**Meeting date:** January 12, 2016

**Department:** Planning and Development Services

**Funds Required:** NA

**Account Number:** NA

**Funds Available:** NA

**Account Name:** NA

**CITY COUNCIL GOAL:** NA

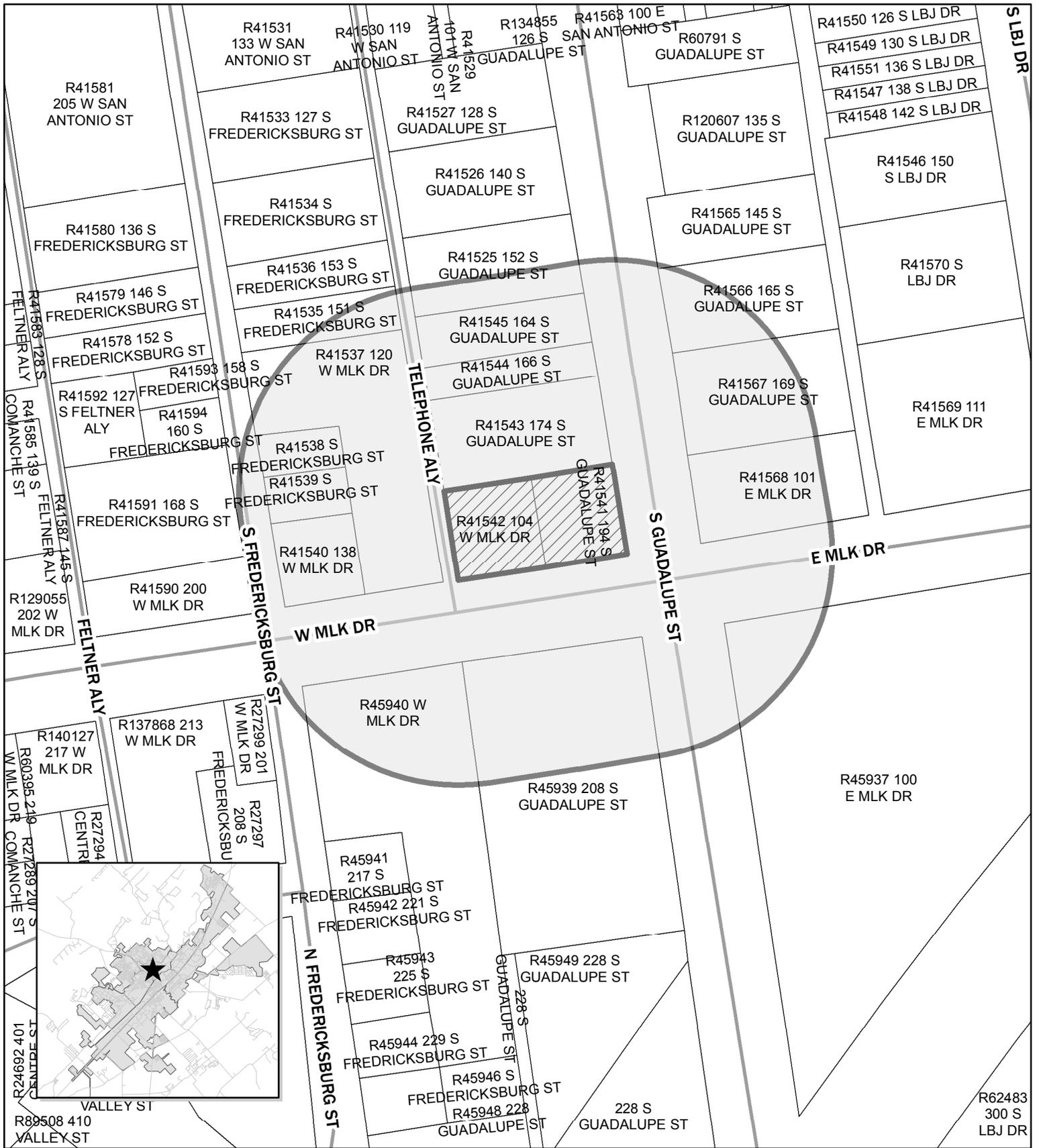
**COMPREHENSIVE PLAN ELEMENT(s):** NA

**BACKGROUND:**

Buzz Mill Coffee is proposed to be a 24 hour restaurant and coffee shop that also provides alcohol and live music for customers. Buzz Mill Coffee is proposing to sell alcohol from 11 a.m. to 2 a.m. Monday - Saturday and 12 p.m. to 2 a.m. on Sundays. Live music is proposed on the front patio, with sound directed toward downtown, and would be restricted to between 8 p.m. and 10 p.m. Buzz Mill Coffee will be approximately 1800 square feet, with 25 indoor seats and 40 outdoor seats. There will be 12 off street parking spaces provided.

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

- 1. The permit shall be valid for one (1) year, provided standards are met, subject to the point system;**
- 2. No outdoor amplified live music after 10 p.m.; and**
- 3. The permit shall be posted in the same area and manner as the Certificate of Occupancy.**



**CUP-15-43**  
**Buzz Mill Coffee**  
**194 S Guadalupe**  
**Map Date: 12/23/2015**



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-15-43**  
**Buzz Mill Coffee**  
**194 S Guadalupe**  
**Map Date: 12/23/2015**

 Site Location



0 100 200 400 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-15-43  
 Conditional Use Permit  
 Buzz Mill Coffee  
 194 South Guadalupe**



**Applicant Information:**

Applicant: Jason Sabala  
 1905 Matagorda Street  
 Austin TX, 78741

Property Owner: East Hopkins, LLC  
 120 West Hopkins, Ste. 200  
 San Marcos, TX 78666

Applicant Request: Request for a new Restricted Conditional Use Permit (CUP) to allow the on-premise consumption of mixed beverages.

Notification: Public hearing notification mailed on December 23, 2015

Response: None as of Staff Report Date

**Subject Property:**

Location: 194 South Guadalupe

Legal Description: Original Town of San Marcos, Block 12, Lot 14

Frontage On: MLK Drive and South Guadalupe

Neighborhood: Downtown (Central Business Area)

Existing Zoning: T5

Utilities: Adequate

Existing Use of Property: Vacant office

Zoning and Land Use:

	<b>Current Zoning</b>	<b>Existing Land Use</b>
<b>N of Property</b>	T5	Office
<b>S of Property</b>	T5	Office
<b>E of Property</b>	T5	Fast Food Restaurant
<b>W of Property</b>	T5	Vehicle Storage and Maintenance

### **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.

Under Section 4.3.4.2 of the LDC, 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. There is no church or school within 1,000 feet.

This location is within the Central Business Area (CBA) and is subject to the additional requirements in the CBA for restricted or "restaurant" permits. The code states that a business holding a restaurant permit must comply at all times with all of the following standards for "bona fide restaurants" 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.

The business must be used, maintained, advertised and held out to the public as a place where meals are prepared and served

### **Case Summary**

Buzz Mill Coffee is proposed to be a 24 hour restaurant and coffee shop that also provides alcohol and live music for customers. Buzz Mill Coffee is proposing to sell alcohol from 11 a.m. to 2 a.m. Monday – Saturday and 12 p.m. to 2 a.m. on Sundays. Live music is proposed on the front patio, with sound directed toward downtown, and would be restricted to between 8 p.m. and 10 p.m. focusing primarily on Americano, Bluegrass, and Country music, the applicant would like to be able to amplify vocals, while requiring all instruments to be acoustic. The

applicant has stated that he is willing to consider input from neighboring residents in order to avoid issues regarding the music aspects of the business. Buzz Mill Coffee will be approximately 1800 square feet, with 25 indoor seats and 40 outdoor seats. There will be 12 off street parking spaces provided.

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

When the application was first submitted, the Fire Marshal's office did express some concerns regarding the potential for a conflict between a business that was open 24 hours a day with a live music component and the single family uses in the area. However, after staff discussions with the applicant, and further review of the applicant's business plan, the Fire Marshal's office has determined that their concerns have been addressed.

### **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.

This property is located within the T5 SmartCode district and Central Business Area. Inside the Central Business Area, no off street parking spaces are required. Within the SmartCode T5 District, three (3) parking spaces are required for every 1000 square feet, which would equate to a maximum requirement of nine (9) off street parking spaces if this proposed restaurant was not located within the Central Business Area. As stated above, the establishment will provide 12 off street parking spaces.

In addition to the standard notice sent to all property owners within 200 feet, the applicant has canvassed the nearby single family residences and spoke to residents about their intentions. A list of properties visited by the applicant and their responses is attached.

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.

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department's standard recommendation is initial approval of the permit 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.

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

- 1. The permit shall be valid for one (1) year, provided standards are met, subject to the point system;**
- 2. No outdoor amplified live music after 10 p.m.; and**
- 3. The permit shall be posted in the same area and manner as the Certificate of Occupancy.**

**Attachments:**

- Site plan
- Menu
- Application
- Applicants Neighborhood Canvas Spreadsheet

**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 Comprehensive 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  
**Name**

Planning Technician  
**Title**

December 23, 2015  
**Date**

---

ALLEY

104/106 MLK

↻ outside eating ↻

1945, GUADALUPE

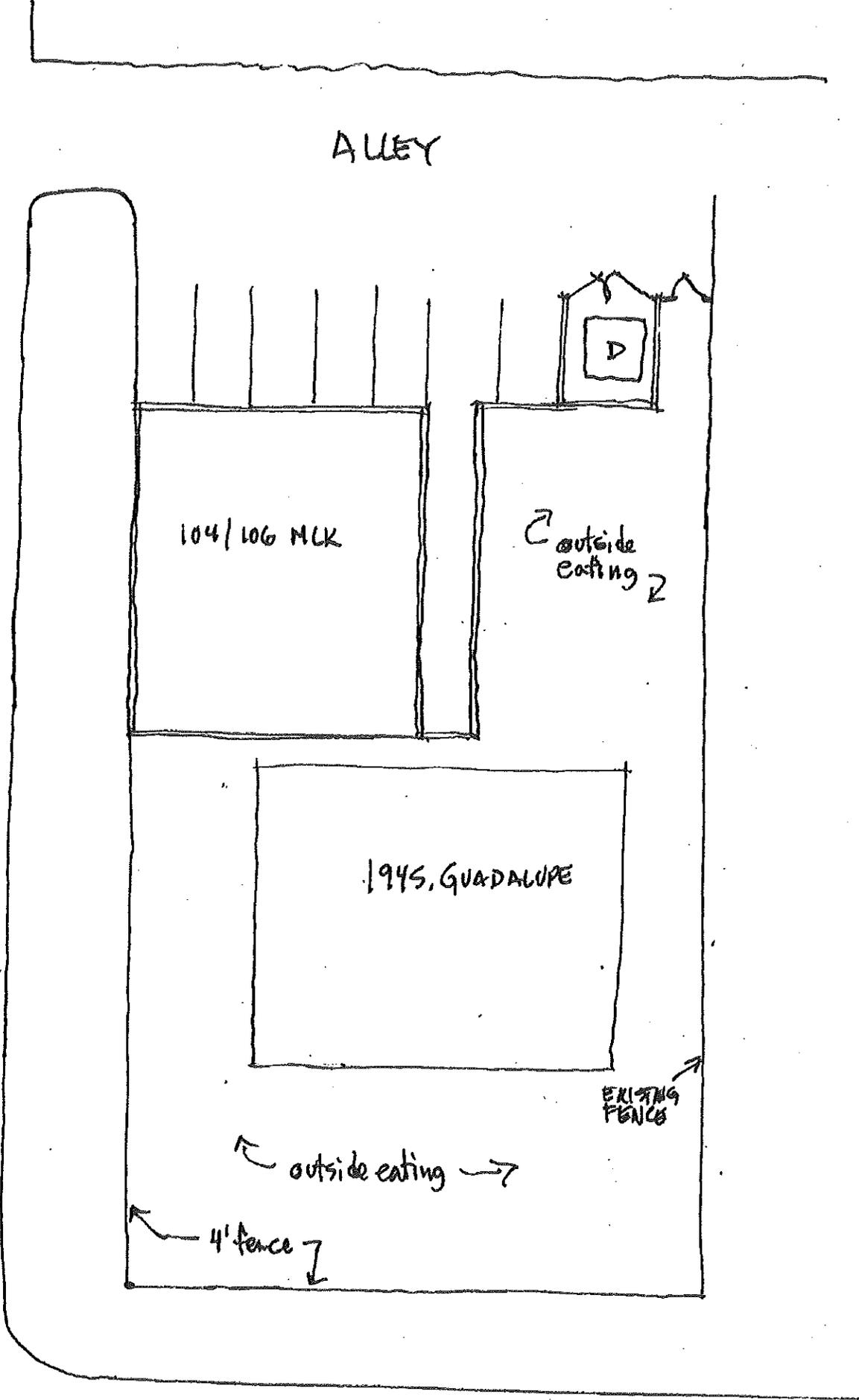
EXISTING FENCE

↻ outside eating →

↙ 4' fence ↘

GUADALUPE

↑  
MLK  
↓



House Made Banana Bread \$3.5

Buttermilk Biscuit w/honey butter  
and seasonal house jam 3.5

Seasonal Fruit \$5 (gf)

Locally made granola w/seasonal  
fresh fruit and almond milk \$6 (gf,v)  
Add yogurt \$1

Breakfast Sausage and Waffle Eggrolls  
Two eggrolls stuffed w waffles, syrup,  
and breakfast sausage. Served  
w/Maple Syrup \$5

Badger Bites (V)  
6 fried donut holes rolled in sugar  
and drizzled w/salted caramel  
ganache \$5

### **Eggs Benedict Nest**

2 eggs poached, toasted English  
muffins, house made hollandaise and  
choice

Ham, Bacon, or Breakfast Sausage 9  
Scottish Smoked Salmon 12,  
Spinach and Avocado 8,  
Seasonal Market Veggies 9

### **Pancake Lodge (triple stacks)**

1) **Choose Pancake** *all pancakes  
served w/Vermont Maple Syrup*

Butter Milk Pancakes  
*we recommend chocolate chip*  
Cornmeal Pancakes *great with  
blueberries*  
Buckwheat Pancakes *perfect  
w/Strawberry Rhubarb compote (gf)*  
Seasonal – Pumpkin Spice Pancake

### **2) Choose Toppings**

Fair Trade Chocolate Chips,  
Blue Berries  
Strawberry Rhubarb Compote  
Salted Caramel Ganache  
*Seasonal* -brown sugar caramelized  
granny smith apples and cinnamon

### **The Lumber Jack**

2 eggs, choice of Niman Ranch Ham or  
Bacon, Chicken Apple Sausage,  
buttermilk pancakes, garlic rosemary  
potatoes \$9

### **Volcano Spuds**

Mountain of homefries topped with  
melted cheese, bacon, green onions,  
crème fraîche, sliced avocado with an  
over-easy egg placed at the peak

### **Gravy Train**

Garlic Rosemary potatoes covered in  
house gravy and topped w/Breakfast  
Sausage (*Vegetarian by request*) \$7  
(*Can be made Vegan*)

### **Biscuits and Gravy \$8**

House-made Biscuits and Gravy

### **Breakfast in a Cup \$7**

Breakfast-in-a-cup: Tall to-go cup  
layered w/Biscuits, eggs, cheddar,  
gravy, bacon

### **Scramble of the Week**

Spinach, Mushroom, melted buffalo  
mozzarella, Pesto, cherry tomatoes  
w/side of roasted garlic rosemary  
potatoes

### **Yukon Sunrise Breakfast Sandwich**

Farm Fresh Fried Egg, cheddar, house-  
made chipotle aioli, dressed arugula  
w/house potatoes \$7 (*add bacon or  
avocado \$2*)

### **Bobcat's Cave: Student Size**

Bobcat Breakfast Sandwich:  
scrambled eggs, bacon, cheddar,  
chipotle aioli, coffee/tea \$5

Bobcat Plate: 2 eggs, 1 pancake, side  
bacon/ham/sausage, potatoes, coffee  
\$6

Bobcat Burger: 1/3 lb certified angus  
beef topped w/cheddar on a Kaiser  
roll served w/LTPO and mayo  
w/sweet potato fries \$7

## Vegan Menu

### **Buzzmill Frontier Bison Burgers**

#### **Grizzly Burger**

½ lb Giant 100% Grass-fed Bison Burger topped w/smoked gouda, thick cut maple bacon, whiskey bacon aioli, and mustard vinegar dressed arugula on a toasted Pretzel Bun, served w/Sweet Potato Fries \$13  
*add avocado \$1.5*

#### **Veggie Burger**

Gardein “beef” pattie topped w/melted buffalo mozzarella, heirloom tomatoes, aged balsamic vinegar and a pesto aioli on a toasted Kaiser Bun served w/sweet potato fries \$10

*BBW: BuzzMill Burger of the Week (rotates weekly)*

#### **Friends of the Frontier –**

*Served w/fruit, seasonal salad, or sweet potato fries*

**Chicken Salad Sandwich** served on rustic Ciabatta w lettuce, tomatoes, red onions and pickles \$9

#### **Open Faced Smoked Salmon Sandwich**

on local rustic whole wheat w/crème fraîche, thinly sliced cucumber and fresh dill \$12

#### **Tuna Salad Sandwich**

served on whole wheat w green leaf lettuce, tomatoes, and lemon-caper aioli \$9

#### **Oven Roasted Turkey Sandwich**

Hand Carved house roasted turkey breast, Havarti cheese, fire roasted tomatoes, green leaf lettuce, rosemary garlic mayo on Ciabatta \$9

**Market Fresh Salad:** Seasonal salad and dressing using local vegetables and fruits from the San Marcos Square farmers market \$10 (rotates)

#### **Breakfast Sausage and Waffle**

##### **Eggrolls**

Two eggrolls stuffed w waffles, syrup, and vegan breakfast sausage. Served w/Maple Syrup \$5

##### **Vegan Donut Holes**

fresh fried donut holes rolled in vegan sugar, served warm \$4

##### **Breakfast Burrito**

Burrito filled w/tofu scrambled eggs, soyrizo, home fries, vegan cheese, chipotle aioli \$8

##### **Famous House Made Waffle**

Scratch-made waffle topped w/strawberry rhubarb compote, vegan butter, and maple syrup \$8

##### **San Marcos Square Sandwich**

Weekly special based on the local harvest. Inquire w/server  
*Served w/fruit, salad, or sweet potato fries \$8*

##### **Cheeseburger**

Gardein “Beef” vegan patty, “American” cheese, green leaf lettuce, tomatoes, red onions, pickles, chipotle aioli \$9  
*Served w/fruit, salad, or sweet potato fries*

##### **Baja Fish Tacos**

Two Battered and Fried Baja “Fish” tacos dressed w/slaw and a lime-cilantro-crema, fresh lime on the side \$9  
*Served w/fruit, salad, or sweet potato fries*

##### **Car-Nay Asada Tacos**

Locally made vegan “beef” (wheat roast) tacos, topped w/house roasted tomatillo salsa, hand-made guacamole, and fresh pico \$9  
*Served w/fruit, salad, or sweet potato fries*

**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: Buzz Mill Coffee  
 Application is filed by:  Individual  Partnership  Corporation  Other: \_\_\_\_\_  
 Name of Individual or Entity: Jason J. Sabala Phone Number: 512-547-9909  
 Mailing Address: 1905 Matagorda St. Austin, TX 78741  
 Email Address: Sabala@buzzmillcoffee.com  
 Type of Permit Requested:  Mixed Beverage  Beer & Wine  Other: \_\_\_\_\_

**PROPERTY**  
 Street Address: 194 Guadalupe  
 Legal Description: Lot 1/2 Block 14 Subdivision \_\_\_\_\_  
 Tax ID Number: R 26-0857723  
 Property Owner's Name: East Hopkins LLC Phone Number: 512-557-8000  
 Address: 120 W. Hopkins surk 200 78666

**BUSINESS DETAILS**  
 Primary Business Use:  Restaurant (Restricted)  Bar (Unrestricted)  Other: \_\_\_\_\_  
 Hours of Operation: 24 hours Dining  
 Type of Entertainment Facilities: Restaurant / Coffee / music  
 Indoor Fixed Seats: 25 Outdoor Fixed Seats: 40  
 Gross Floor Area Including Outdoor Above-ground Decks: 1800 Square Feet  
 Number of Off-Street Parking Spaces Provided: 12  
 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*

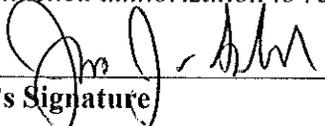
- New request, no existing TABC CUP Permit at this location
- Change to existing TABC Permit. Nature of Change: \_\_\_\_\_
- Renewal
- Change in name of license holder of existing business at same location
- Change in name of existing business at this location

**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: Jason J. Sabala Date: 11/30/15

*To be completed by Staff:*

Meeting Date: \_\_\_\_\_ Application Deadline: \_\_\_\_\_  
Accepted By: \_\_\_\_\_ Date: \_\_\_\_\_

# Buzz Mill 194 S Guadalupe

## Presumed nearby property owners with interests in the conditional use pe

Address	200' notice area	use code	Home
appear to be residential uses			
138 W MLK	Y	single family residence	Yes
165 S Guadalupe	Y	multi family rentals - per realtor.cc	No
127 S Fredericksburg St	N	single family residence	Yes
160 S Fredericksburg St	N	single family residence	Yes
158 S Fredericksburg	N	single family residence	No
152 S Fredericksburg	N	single family residence	No
146 S Fredericksburg	N	single family residence	No
136 - 140 S Fredericksburg	N	single family residence	No
202 W MLK	N	single family residence	No
139 S Comanche	N	single family residence	No
141 S Comanche	N	single family residence	Yes
302 W MLK	N	single family residence	Yes
306 W MLK	N	single family residence	Yes
209 W MLK	N	single family residence	No
128 Feltner	N	single family residence	No
228 Fredericksburg St	N	single family residence	Yes
209 S Comanche	N	single family residence	No

appear to be commercial per use codes

168 S Fredericksburg St	Comm Misc
200 MLK (parcel R41590)	museum (Calaboose)

rmit

Name	Comments
n/a	Was very polite, receptive, and no concerns at the moment
Al Michael P.	Very receptive and much appreciated for face to face. Super stoked coffee drinker and very friendly.
Lucy	Elderly couple living in back. No interaction.
Don John n/a	Really cool and excited for dining option Excited for new spot and wished us good luck Seemed very nice and was grateful for gift box
Jody	Was thankful for gift box Jody's Massage, left gift box and phone message



## Legislation Text

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**File #:** SCW-15-02, **Version:** 1

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**AGENDA CAPTION:**

SCW-15-02 (101 East Hopkins Street) Hold a public hearing and consider a request by Dave M. Newman for a SmartCode Warrant to allow a wireless transmitter in a SmartCode T5 zoning district at 101 East Hopkins Street. (A. Brake)

**Meeting date:** January 12, 2016

**Department:** Planning and 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

**COMPREHENSIVE PLAN ELEMENT(s):** N/A

**BACKGROUND:**

The applicant is requesting a warrant to allow a wireless transmitter support pole on the roof of the building located at 101 East Hopkins Street. This will be an antenna for a non-profit community radio station proposed to be located within the building. Engineered drawings show the bottom diameter of the pole is two inches while the top diameter is one and one-quarter inches; the guy wires are indicated as one-eighth inch in diameter. The building is located in the Downtown Historic District and a Certificate of Appropriateness was approved at the December 3, 2015 Historic Preservation Commission meeting with the conditions that a Section 106 Review by the Texas Historic Commission (THC) finds no adverse effect to the historic property and the height of the pole does not exceed 30 feet. If the Section 106 Review is denied, the antenna will not be allowed to be erected at this location.

Warrants are rulings that permit practices that are not consistent with a specific provision of the SmartCode but are justified by provisions of Section 1.3 Intent. Staff finds that the intent of Section 1.3.4 of the SmartCode has been met and that the addition of the transmitter is not detrimental to the intent of this Section. Expanding the scope of the local radio station, KZOS, is an Objective of the Comprehensive Plan. While this antenna will not be used for KZOS, approval of this warrant does meet the intent of the objective by allowing a new community radio station.

**Staff provides this request to the Commission for your consideration and recommends approval of the**

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**File #: SCW-15-02, Version: 1**

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**SmartCode Warrant to allow a wireless transmitter in a T5 zoning district.**





**SCW-15-02**  
**Radio Antenna**  
**101 E Hopkins Street**  
**Map Date: 12/22/2015**

 Site Location



0 100 200 400 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.

**SCW-15-02  
SmartCode Warrant  
Wireless Transmitter  
101 East Hopkins Street**



**Summary:**

Applicant: Dave M. Newman  
128 East Holland Street  
San Marcos, TX 78666

Property Owner: Carl Aiken  
242 Whitney Run  
Buda, TX 78610

Applicant Request: *Request for a SmartCode Warrant to allow a wireless transmitter in a T5 zoning district.*

Notification: Public hearing notification mailed on December 22, 2015

Response: None as of date of report.

**Property Area/Profile:**

**Location:** 101 East Hopkins Street

**Legal Description:** Lot West ¾ of 8, Block 20, Original Town of San Marcos

**Frontage On:** East Hopkins Street and North Guadalupe Street

**Neighborhood:** Downtown

**Existing Zoning:** T5

**Future Land Use Map:** Downtown – High Intensity

**Existing Utilities:** Adequate

**Existing Use of Property:** Mix of uses (retail clothing store, ballet studio, and media services office)

**Zoning and Land Use Pattern:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
<b>N of Property</b>	CS	Texas State University – Sound Recording Technology
<b>S of Property</b>	CS	Hays County Courthouse
<b>E of Property</b>	T5	Retail
<b>W of Property</b>	T5	Bar & Bank

**Code Requirements:**

A Warrant is a ruling that would permit a practice that is not consistent with a specific provision of the SmartCode, but is justified by the provisions of Section 1.3 Intent. The Warrant process requires personal notification of property owners within 200' and public hearing before the Planning and Zoning Commission.

Land Use is regulated in the base SmartCode within the Specific Use and Function section (Table 5.7). The use of a wireless transmitter may be considered by Warrant.

## **Background:**

The Warrant request is for a wireless transmitter support pole on the roof of the building. This will be an antenna for a non-profit community radio station proposed to be located within the building. Engineered drawings submitted by the applicant shows the pole stands on a concrete base with guy wires attached in order to secure it. The guy wires will be attached by bolts to the back of the existing parapet on the Guadalupe Street façade, the existing parapet on the Hopkins Street façade, and an existing pony wall along the alley façade. The drawings indicate that the bottom diameter of the pole is two inches while the top diameter is one and one-quarter inches; the guy wires are indicated as one-eighth inch in diameter. The applicant has included photographs showing the pole on the roof from different angles on the Square; these have been included in the packet.

As the property is located within the Downtown Historic District, approval by the Historic Preservation Commission (HPC) of a Certificate of Appropriateness is required prior to installation. The request was approved at the Regular Meeting of the HPC on December 3, 2015 with the conditions that a Section 106 Review by the Texas Historic Commission (THC) finds no adverse effect to the historic property and the height of the pole does not exceed 30 feet. Section 106 of the National Historic Preservation Act requires federal agencies to consider the effects of projects they carry out, approve, or fund on historic properties. As the Federal Communications Commission is licensing the antenna the Section 106 Review is required. The applicant has submitted for this review at the THC; the review generally takes 30 days to complete. If the Section 106 Review is denied, the antenna will not be allowed to be erected at this location.

## **Comments from Other Departments:**

Warrants are reviewed by the interdepartmental SmartCode Development Review Committee (DRC) which is comprised of members of Planning, Permitting, Building, Main Street, Engineering and Public Services. The DRC reviews and provides comments repeatedly throughout the review process for building and site design issues.

Fire and Police reviewed the request separately and approved with no comments.

## **Planning Department Analysis:**

As the building has existed in its current configuration since the late 1880s – early 1900s, the intent of Section 1.3.4 is met. The proposed improvements are not detrimental to the intent of this Section. The antenna could be safely removed without damaging the historic fabric of the building and the utilization of a historic building Downtown could enhance the cultural aspect of the City. Currently, the City has a local radio station, KZOS, which was specifically designed for local emergency use; it does promote community events and other activities. Expanding the scope of KZOS is an Objective of the Comprehensive Plan. While this antenna will not be used for KZOS, approval of this warrant does meet the intent of the objective by allowing a new community radio station.

### **1.3.4. The Block and the Building**

- a. That buildings and landscaping should contribute to the physical definition of Thoroughfares as Civic places.
- b. That development should adequately accommodate automobiles while respecting the pedestrian and the spatial form of public areas.
- c. That architecture and landscape design should grow from local climate, topography, history, and building practice.
- d. That buildings should provide their inhabitants with a clear sense of geography and climate through energy efficient methods.
- e. That Civic Buildings and public gathering places should be provided as locations that reinforce community identity and support self-government.
- f. That Civic Buildings should be distinctive and appropriate to a role more important than the other buildings that constitute the fabric of the city.

- g. That the preservation and renewal of historic buildings should be facilitated, to affirm the continuity and evolution of society.
- h. That the harmonious and orderly evolution of urban areas should be secured through form-based codes.

**Staff provides this request to the Commission for your consideration and recommends approval of the SmartCode Warrant to allow a wireless transmitter in a T5 zoning district.**

Planning Department Recommendation:	
<b>X</b>	Approve as submitted
	Denial

**The Commission's Responsibility:**

The Commission is required by law to hold a public hearing and receive public comment on this application. After considering the public input, the Commission is charged with making a decision to approve or deny the Warrant.

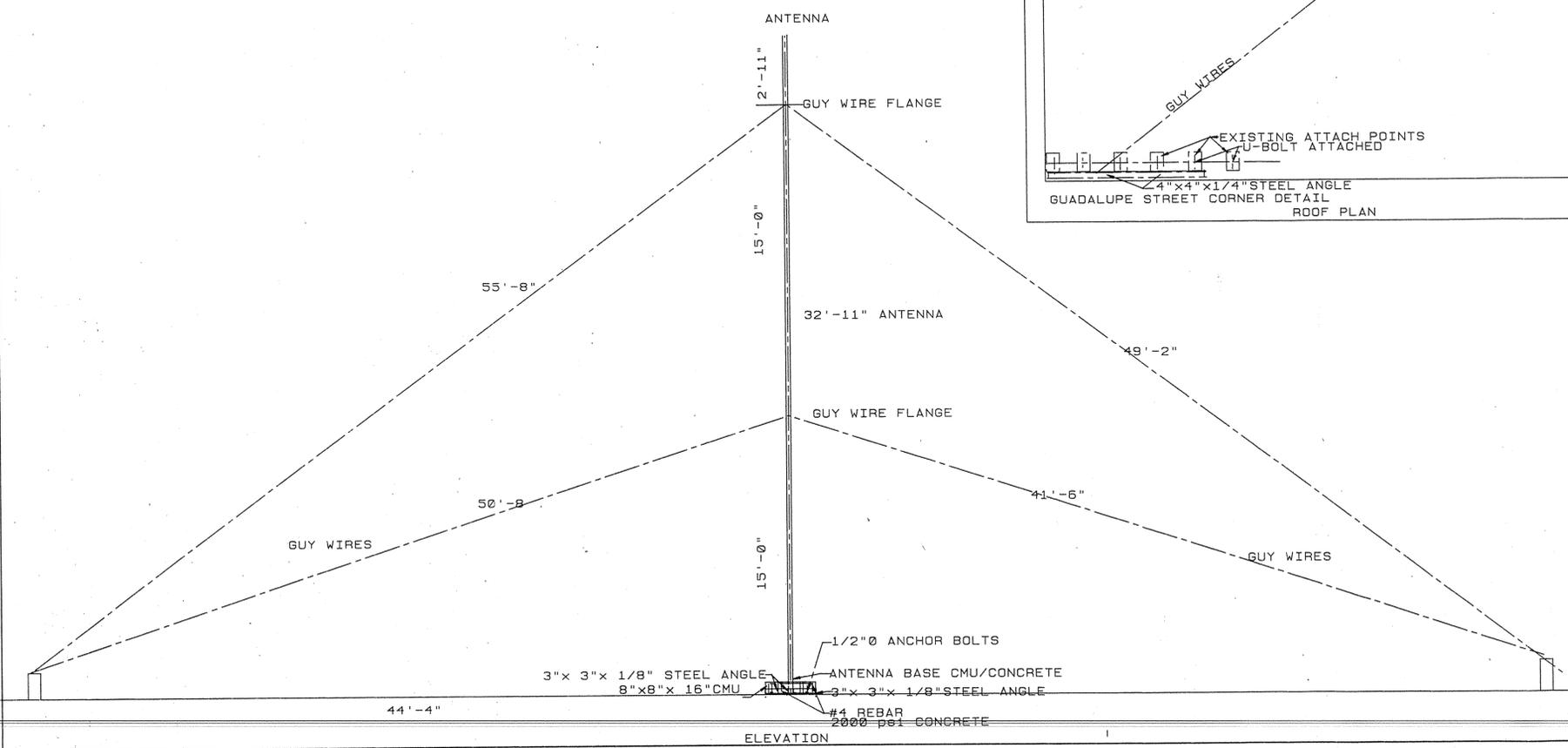
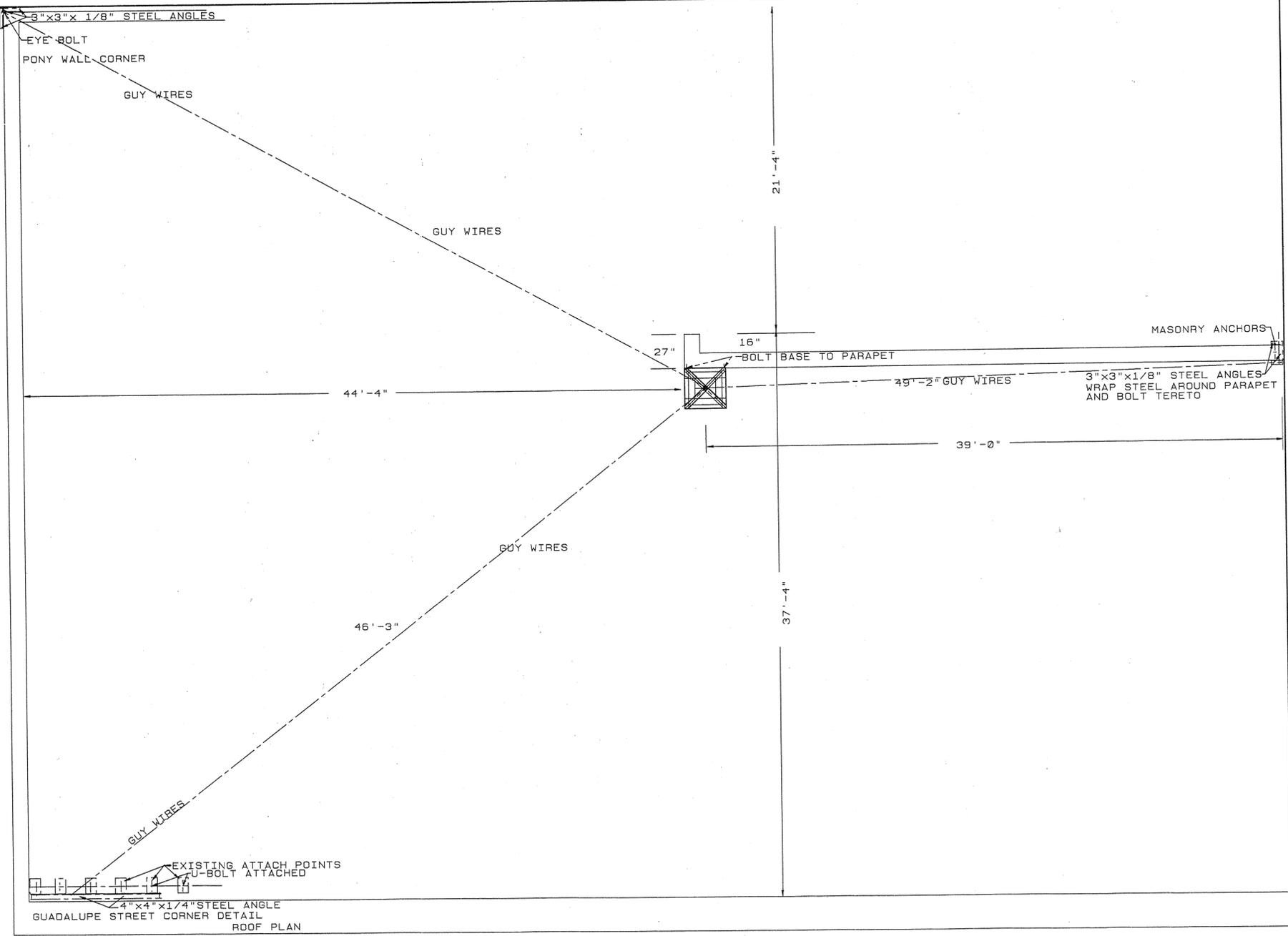
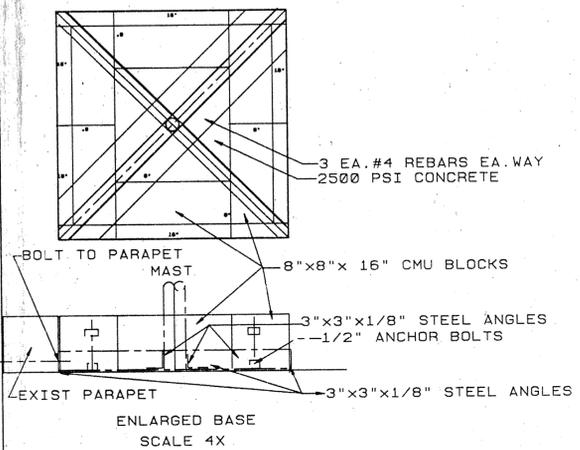
The Commission's decision is discretionary. In evaluating the impact of the proposed Warrant on surrounding properties, the Commission should consider the extent to which the practice:

- enables, encourages and qualifies the implementation of the SmartCode policies on Intent;
- is consistent with policies of the Comprehensive Plan and Downtown Master Plan;
- is compatible with the character and integrity of adjacent developments and the general intent of the Transect.

The following standards are not available for Warrants:

- a. the maximum dimensions for traffic lanes;
- b. the required provision of Rear Alleys; and
- c. the Base Residential Densities.

Alison Brake, CNU-A	Planner	December 30, 2015
<b>Name</b>	<b>Title</b>	<b>Date</b>

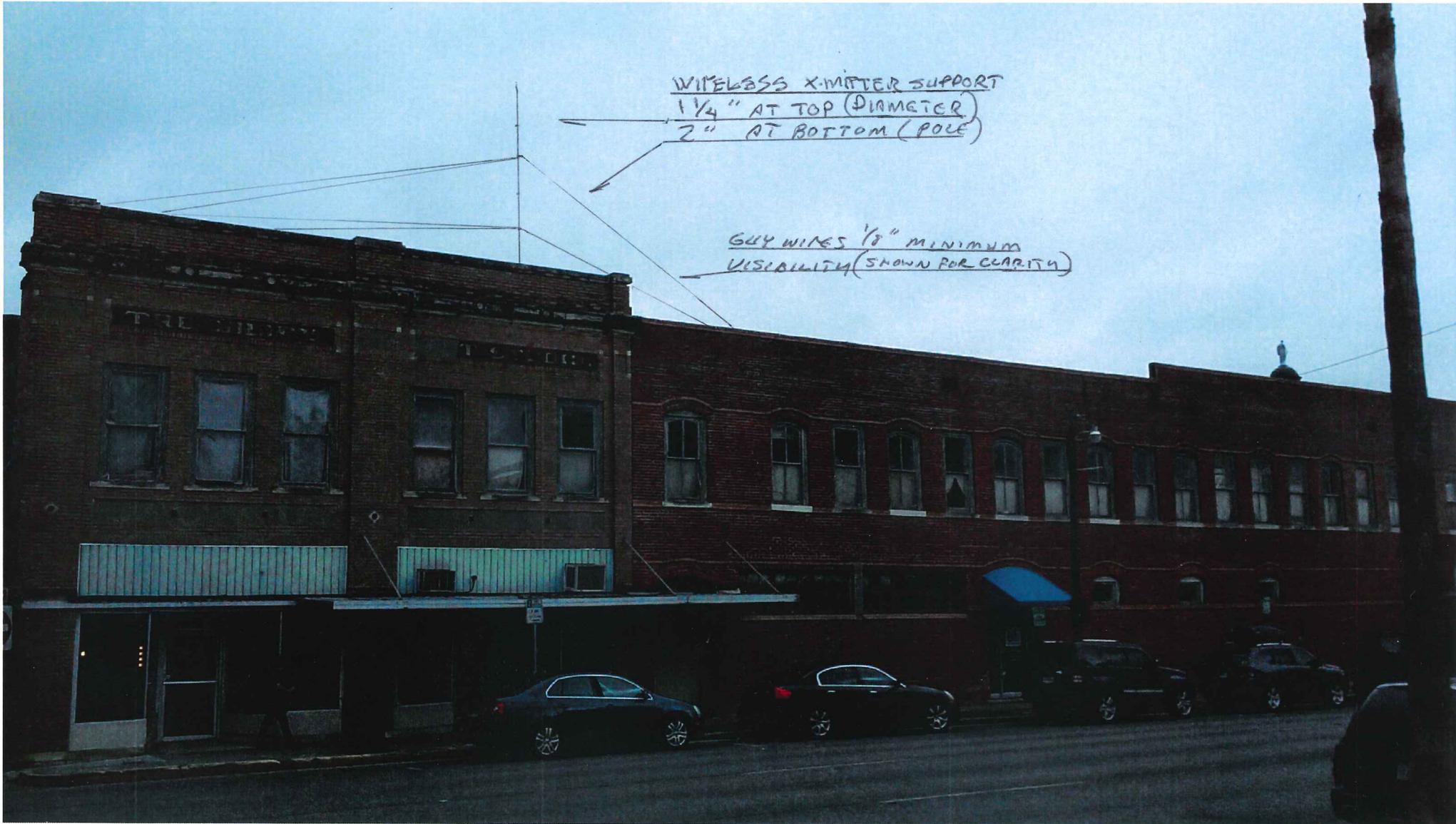


KZSM-LP

P.E. SEAL: EXP. 10/15		REVISIONS	
TX. REGISTERED PROFESSIONAL ENGINEER #15932		DATE 8/5/2015	
		JOB # 716-15	
K.G. ENGINEERING, P.C. FULLY OWNED SUBSIDIARY OF K.G. STRUCTURAL SOLUTIONS, LLC 725 West Zipp Road NEW BRUNSWICK, TEXAS 78128-8848 (830) 629-8875, FAX 830-625-8125		DWG # S-1	
FOR DAVID NEWMAN SAN MARCOS, TX		REVISIONS	
PROJ. RADIO ANTENNA 214 N. GUADALUPE ST LOC. SAN MARCOS, TX		NO. DATE	
ITEM ANTENNA GUYS & BASE		SCALE	
OWN: K.G.	APPR'D: K.G.	SCALE: 1/4"=1'-0"	
FILE: 716KZSML.20			

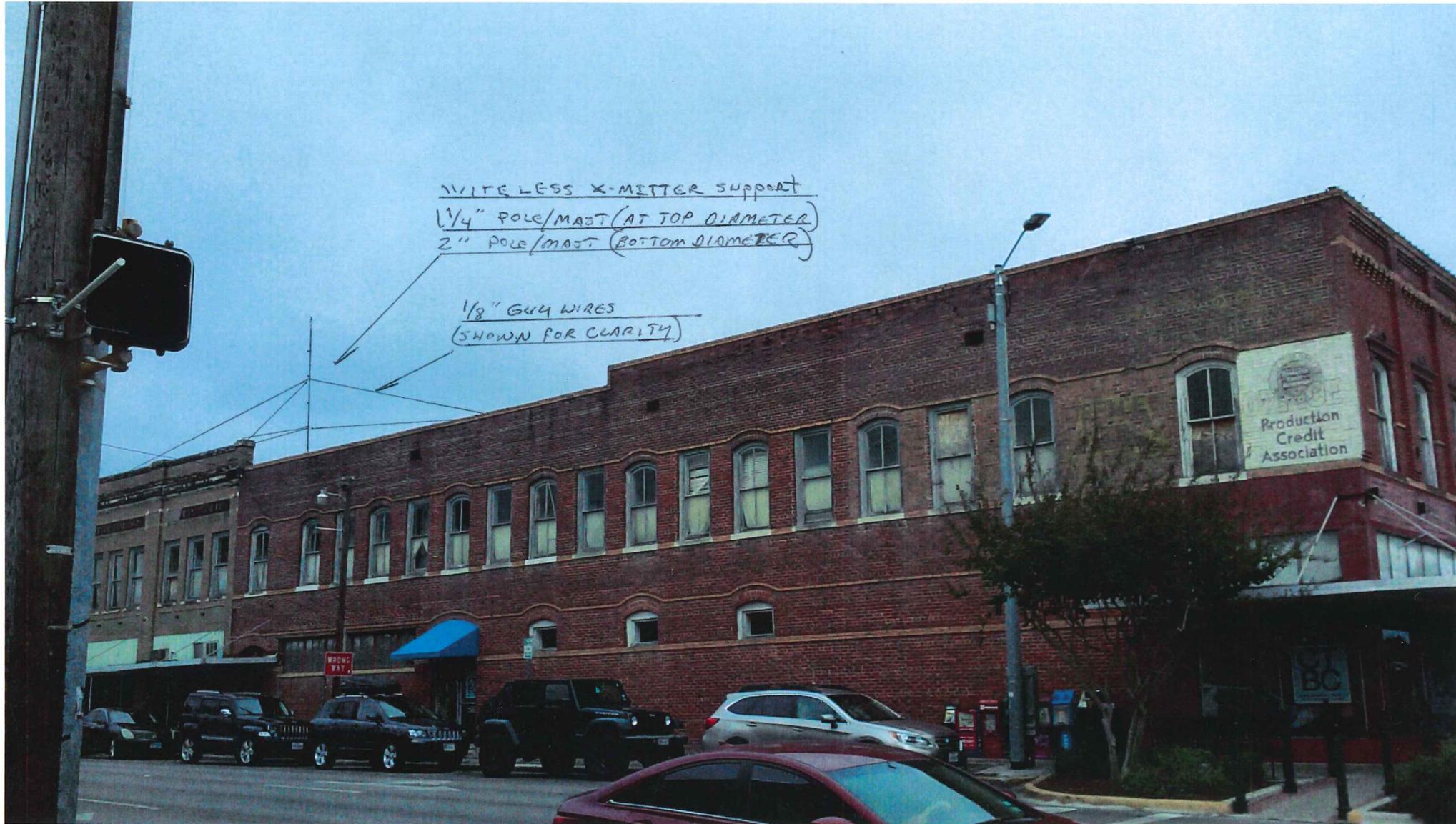
WIRELESS X-METER SUPPORT  
1 1/4" AT TOP (DIAMETER)  
2" AT BOTTOM (POLE)

GUY WIRES 1/8" MINIMUM  
VISIBILITY (SHOWN FOR CLARITY)



WIRELESS X-MITTER support  
1 1/4" POLE/MAST (AT TOP DIAMETER)  
2" POLE/MAST (BOTTOM DIAMETER)

1/8" GUY WIRES  
(SHOWN FOR CLARITY)





TEAM

STATION  
STUDIOS

FIRST FLOOR

- Mark E. Lewis
- Electronics
- Music Production Studio
- Digital Editing Suite
- 224 N. Guadalupe



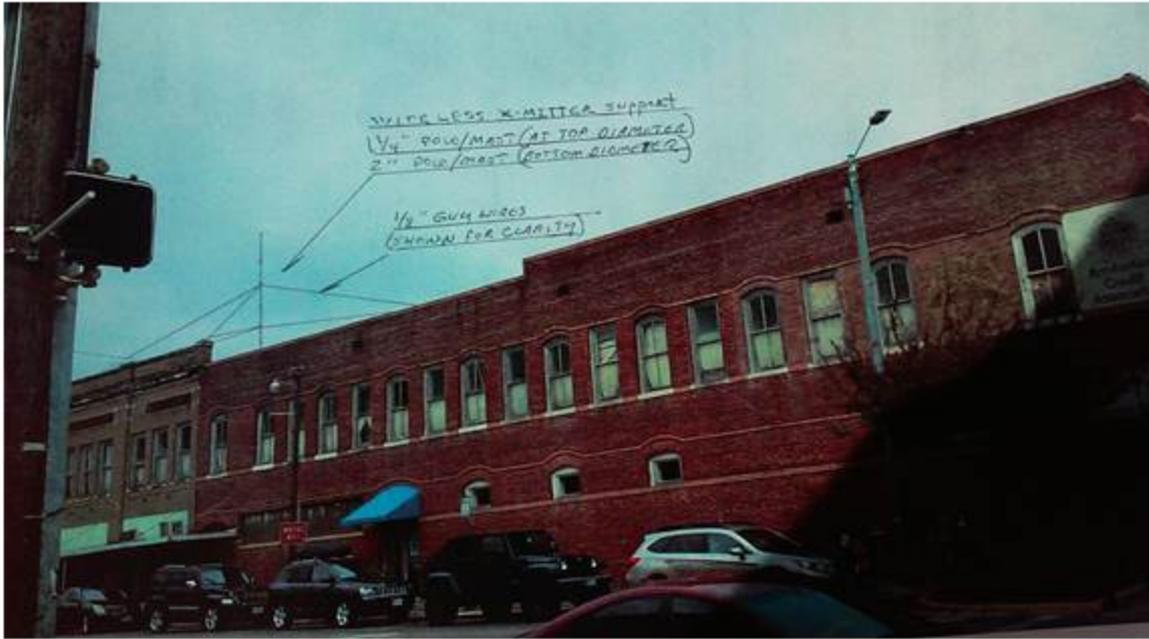
T. C. WILSON

T. C. WILSON

DO NOT ENTER



Renderings Comparison



### City of San Marcos SMARTCODE WARRANT APPLICATION

	<u>APPLICANT</u>	<u>PROPERTY OWNER</u>
Name:	<u>DAVID M. NEWMAN</u>	<u>CARL AIKEN</u>
Mailing Address:	<u>128 E. HOLLAND ST. SAN MARCOS, TX 78666</u>	<u>242 WHITNEY RUN BUDA, TX 78610</u>
Telephone No.:	<u>832 213 7186</u>	<u>512 820 5858</u>
E-mail address:	<u>dave@mediadesign.net</u>	

Property Address: 101 EAST HOPKIN (214/216 N. GUADALUPE)  
 Legal Description (if platted): Lot W 3/4 OF B Block 20 Subdivision ORIGINAL TOWN OF S.M.  
 Tax ID Number: R 41630 Zoning District: T5

#### WARRANT REQUEST

1.5.2 A warrant is a ruling that would permit a practice that is not consistent with a specific provision of the Code but is justified by the provisions of Section 1.3 Intent.

Section of the SmartCode from which the deviation is sought: WIRELESS TRANSMITTER  
REQUIRES APPROVAL OF A WARRANT INTS PER TABLE 5-7.

Justification of Intent (provide additional narrative and exhibits as necessary):  
FCC MANDATED TRANSMITTER LOCATION FOR NON-PROFIT COMMUNITY  
RADIO STATION TO SERVE THE PUBLIC, AND ENHANCE THE DOWNTOWN CULTURAL  
EXPERIENCE IN SAN MARCOS.

I certify that the information in this application is complete and accurate. I understand that I or another representative should be present at all meetings concerning this application.

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

Signature of Applicant: [Signature] Date: 12/4/15

#### To be completed by Staff:

Meeting Date: \_\_\_\_\_ Application Deadline: \_\_\_\_\_  
Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_

## **SmartCode: Section 1.3 Intent**

### **1.3. - INTENT**

1.3.1. The intent and purpose of this Code is to enable, encourage and qualify the implementation of the following policies:

#### **1.3.2. THE REGION**

- a. That the region should retain its natural infrastructure and visual character derived from topography, woodlands, farmlands, riparian corridors and the river.
- b. That growth strategies should encourage infill and redevelopment in parity with New Communities.
- c. That development contiguous to urban areas should be integrated with the existing urban pattern.
- d. That development non-contiguous to urban areas should be organized in the pattern of Clustered Land Development ("CLD") or Traditional Neighborhood Design ("TND").
- e. That Affordable Housing should be distributed throughout the region to match job opportunities and to avoid concentrations of poverty.
- f. That transportation Corridors should be planned and reserved in coordination with land use.
- g. That green corridors should be used to define and connect the urbanized areas.
- h. That the region should include a framework of transit, pedestrian, and bicycle systems that provide alternatives to the automobile.

#### **1.3.3. THE COMMUNITY**

- a. That neighborhoods and Regional Centers should be compact, pedestrian-oriented and Mixed Use.
- b. That neighborhoods and Regional Centers should be the preferred pattern of development and that Districts specializing in a single use should be the exception.
- c. That ordinary activities of daily living should occur within walking distance of most dwellings, allowing independence to those who do not drive.
- d. That interconnected networks of Thoroughfares should be designed to disperse traffic and reduce the length of automobile trips.
- e. That within neighborhoods, a range of housing types and price levels should be provided to accommodate diverse ages and incomes.
- f. That appropriate building Densities and land uses should be provided within walking distance of transit stops.
- g. That Civic, Institutional, and Commercial activities should be embedded downtown, not isolated in remote single-use complexes.
- h. That schools should be sized and located to enable children to walk or bicycle to them.
- i. That a range of Open Space including Parks, Squares, and playgrounds should be distributed within neighborhoods and downtown.

#### **1.3.4. THE BLOCK AND THE BUILDING**

- a. That buildings and landscaping should contribute to the physical definition of Thoroughfares as Civic places.
- b. That development should adequately accommodate automobiles while respecting the pedestrian and the spatial form of public areas.
- c. That architecture and landscape design should grow from local climate, topography, history, and building practice.
- d. That buildings should provide their inhabitants with a clear sense of geography and climate through energy efficient methods.
- e. That Civic Buildings and public gathering places should be provided as locations that reinforce community identity and support self-government.
- f. That Civic Buildings should be distinctive and appropriate to a role more important than the other buildings that constitute the fabric of the city.
- g. That the preservation and renewal of historic buildings should be facilitated, to affirm the continuity and evolution of society.
- h. That the harmonious and orderly evolution of urban areas should be secured through form-based codes.

### 1.3.5. THE TRANSECT

- a. That Communities should provide meaningful choices in living arrangements as manifested by distinct physical environments.
- b. That the Transect Zone descriptions on Table 1.1 shall constitute the Intent of this Code with regard to the general character of each of these environments.

### **SmartCode: Section 1.5 Warrants and Variances**

1.5.1. There shall be two types of deviation from the requirements of this Code: Warrants and Variances.

1.5.2. A Warrant is a ruling that would permit a practice that is not consistent with a specific provision of this Code but is justified by the provisions of Section 1.3 Intent. The Planning and Zoning Commission (P&Z) shall have the authority to approve or disapprove a request for a Warrant pursuant to regulations established. A warrant subject to the review of the P&Z shall require a public hearing and personal notice of the public hearing be sent to property owners within 200 feet of the subject property. Personal notice shall be sent by regular mail before the tenth day before the hearing date.

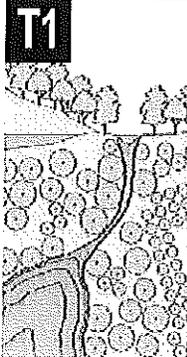
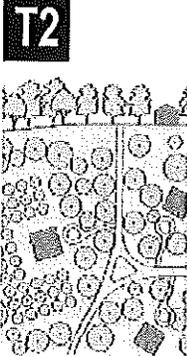
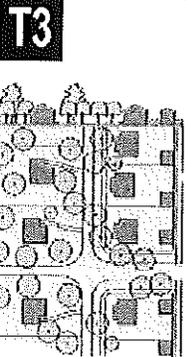
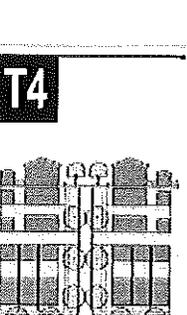
1.5.3. A Variance is any ruling on a deviation other than a Warrant. Variances shall be granted only in accordance with the State of Texas Statutes, Chapter 211 of the Local Government Code, as amended.

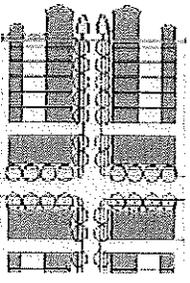
1.5.4. The request for a Warrant or Variance shall not subject the entire application to public hearing, but only that portion necessary to rule on the specific issue requiring the relief.

- 1.5.5. The following standards shall not be available for Warrants:
- a. The maximum dimensions for traffic lanes.
  - b. The required provision of Rear Alleys.
  - c. The Base Residential Densities.

**TABLE 1.1. TRANSECT ZONE DESCRIPTIONS**

This table provides descriptions of the general character of each T-zone. It is part of Intent Section 1.3.

 <p><b>T1</b></p>	<p><b>T-1 NATURAL</b></p> <p>T-1 Natural Zone consists of lands approximating or reverting to a wilderness condition, including lands unsuitable for settlement due to topography, hydrology or vegetation.</p>	<p><b>General Character:</b></p> <p><b>Building Placement:</b></p> <p><b>Frontage Types:</b></p> <p><b>Typical Building Height:</b></p> <p><b>Type of Civic Space:</b></p>	<p>Natural landscape with some agricultural use</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Parks, Greenways</p>
 <p><b>T2</b></p>	<p><b>T-2 RURAL</b></p> <p>T-2 Rural Zone consists of sparsely settled lands in open or cultivated states. These include, woodland, agricultural land, grassland, and hill country. Typical buildings are farmhouses, agricultural buildings, cabins, and villas.</p>	<p><b>General Character:</b></p> <p><b>Building Placement:</b></p> <p><b>Frontage Types:</b></p> <p><b>Typical Building Height:</b></p> <p><b>Type of Civic Space:</b></p>	<p>Primarily agricultural with woodlands &amp; wetland and scattered buildings</p> <p>Variable Setbacks</p> <p>Not applicable</p> <p>1- to 2-Story</p> <p>Parks, Greenways</p>
 <p><b>T3</b></p>	<p><b>T-3 SUB-URBAN</b></p> <p>T-3 Sub-Urban Zone consists of low density walkable residential areas, adjacent to higher zones that have some mixed use. Home occupations and outbuildings are allowed. Planting is naturalistic and setbacks are relatively deep. Blocks may be large and Thoroughfares irregular to accommodate natural conditions, but designed for slow movement.</p>	<p><b>General Character:</b></p> <p><b>Building Placement:</b></p> <p><b>Frontage Types:</b></p> <p><b>Typical Building Height:</b></p> <p><b>Type of Civic Space:</b></p>	<p>Lawns, and landscaped yards surrounding detached single-family houses; pedestrians occasionally</p> <p>Large and variable front and side yard Setbacks</p> <p>Porches, fences, naturalistic tree planting</p> <p>1- to 2-Story with some 3-Story</p> <p>Parks, Greenways</p>
 <p><b>T4</b></p>	<p><b>T-4 GENERAL URBAN</b></p> <p>T-4 General Urban Zone consists of a mixed use but primarily residential urban fabric. It may have a wide range of building types: single, sideyard, and rowhouses. Setbacks and landscaping are</p>	<p><b>General Character:</b></p> <p><b>Building Placement:</b></p>	<p>Mix of Houses, Townhouses &amp; small Apartment buildings, with scattered Commercial activity; balance between landscape and buildings; presence of pedestrians</p> <p>Shallow to medium front and</p>

	variable. Streets with curbs and sidewalks define medium-sized blocks.		side yard Setbacks
		<b>Frontage Types:</b>	Porches, fences, Dooryards
		<b>Typical Building Height:</b>	2- to 3-Story with a few taller Mixed Use buildings
		<b>Type of Civic Space:</b>	Squares, Greens
<div data-bbox="191 436 256 499" style="background-color: black; color: white; padding: 2px; display: inline-block;"><b>T5</b></div> 	<p><b>T5 URBAN CENTER</b></p> <p>T-5 Urban Center Zone consists of higher density mixed use building that accommodate retail, offices, rowhouses and apartments. It has a tight network of streets, with wide sidewalks, regularly spaced street tree planting and buildings set close to the sidewalks.</p>	<b>General Character:</b>	Shops mixed with Townhouses, larger Apartment houses, Offices, workplace, and Civic buildings; predominantly attached buildings; trees within the public right-of-way; substantial pedestrian activity
		<b>Building Placement</b>	Shallow Setbacks or none; buildings oriented to street defining a street wall
		<b>Frontage Types:</b>	Stoops, Shopfronts, Galleries
		<b>Typical Building Height:</b>	2- to 5-Story with some variation
		<b>Type of Civic Space:</b>	Parks, Plazas and Squares, median landscaping