

CUP-12-18
Zelick's
336 W Hopkins St
Map Date: 05/17/12

-  Notification Buffer (200 feet)
-  Site Location

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CUP-12-18

Conditional Use Permit

Zelick's

336 W. Hopkins



Applicant Information:

Applicant: Seth Katz
Mailing Address: 336 W. Hopkins
 San Marcos TX 78666

Property Owner: Kevin Katz
 1205 Pin Oak Drive
 Dickinson TX 77539

Applicant Request: Renewal of Conditional Use Permit (CUP) to allow the sale and on-premise consumption of mixed beverages in a T5- Urban Center zoning district.

Public Hearing Notice: Public hearing notification was mailed on June 1, 2012.

Response: See attached Spreadsheet

Subject Property:

Location: 336 W. Hopkins
Legal Description: D P Hopkins #1, Block 3, Lot Pt Of 1, Acres 0.2678
Frontage On: Hopkins, North
Neighborhood: Downtown
Existing Zoning: T5- Urban Center
Sector: Sector 8
Utilities: Sufficient
Existing Use of Property: Bar

Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of property	T5- Urban Center	Commercial
S of property	T5- Urban Center	Commercial
E of property	T5- Urban Center	Crystal River Inn
W of property	T5- Urban Center	Office

Code Requirements:

A conditional use permit 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.

Case Summary

The subject property is located on the northeast corner of Hopkins and North Street outside of the Central Business Area. The subject property was previously a state motor vehicle inspection facility, gas station, and U-Haul truck rental facility but was converted into a "Garden Bar" in 2010. Significant improvements have been made to the lot as well as the appearance of the building located on the property. A CUP for mixed beverages was granted June 22, 2010, and effective for one (1) year. This CUP expired in June of 2011. A renewal application was received by staff on November 16, 2011.

The Planning and Zoning Commission heard the renewal request at the December 13, 2011 meeting. Concerns were raised by the neighboring Crystal River Inn (Mike and Cathy Dillon) regarding noise produced by the bar. The Planning and Zoning Commission approved a 6 month renewal of the CUP and tasked staff, the applicants and Crystal River Inn to work through mediation to find solutions to the noise concerns. Concerns were raised by the Dillons over the spikes in noise from Zelick's patrons late at night. The primary concerns involved the horseshoes and other games outside, as well as, the motorcycles which frequent the establishment. Staff included some recommendations from the Dillons for restrictions to the hours of operation, outdoor game hours and live/recorded music, but no conditions were put in place on the CUP outside of the 6 month renewal.

Following the December 13, 2011 hearing, staff contacted Walt Krudop who handles conflict resolution for the Hays County Mediation Coordination Services and introduced him to the Katzes and Dillons. In addition to mediation, discussions with the Dillons and Katzes were held with staff. Staff made follow up phone calls in June to both parties in order to understand what progress toward a resolution has been made over the past 6 months. While no final solution has been determined, both sides have actively worked with one another to try to come to a resolution. The Katzes informed staff that they have explored sound mitigation methods through Acoustical Solutions, but that a noise barrier solution was not currently feasible. The Katzes have also stated that they have made bikers aware of the noise concerns and encourage the bikers to park away from the shared lot line and minimize idle running during the evening hours. Both parties have been active in discussions and have met the Commission's desire of seeking an outside mediator.

On June 5, Staff met with Mr. and Mrs. Dillon, the owners of Crystal River Inn, and received feedback from them regarding the results of the mediation. The Dillons felt that no permanent solution or progress was made and requested that additional conditions be added to the CUP to limit noise.

Staff also attempted to contact Mr. Krudop by phone in order to receive feedback regarding the mediation meetings, but was unable to reach him prior to the completion of this staff report.

The renewal application indicates hours from 3 p.m. to 2 a.m. and no live music has been proposed. Outdoor games such as horseshoes and Bache Ball are permitted under the current CUP. There are currently 22 parking spaces provided.

Comments from Other Departments:

No issues were raised from other departments.

Planning Department Analysis:

The prior CUP renewal was granted for 6 months in order to pursue mediation of concerns held by both involved parties. At this point there have been no permanent structural changes made to either property to mitigate noise. Both sides have explored options, with none being perceived as feasible. At the time of this report there have been no points assessed by City enforcement and the Police Department has not reported any violations.

Staff believes that both the Katzes and Dillons have attempted to mitigate the noise issues at hand. Both have met the requests of the Commission to seek mediation and have actively participated in the meetings in an attempt to find a solution to the noise problem. Staff believes that ongoing cooperation must be done in order for both property owners to coexist harmoniously. Staff believes a one (1) year renewal would provide Zelick's more time to improve noise mitigation while also allowing for a full school year to be completed in order to determine the months where noise becomes a greater issue. Staff urges the applicants to continue to communicate and seek alternative means of reducing the noise impact on one another.

Staff recommends several conditions be added to the CUP in order to decrease the noise impact created by bar patrons. The first two conditions below were conditions to consider on the previous staff report in 2011 but were not included in the Commission's determination. Staff believes that the following conditions would help improve noise issues while limiting the impact on bar operations. These conditions are listed below.

- Signage shall be provided along the side property line adjacent to Crystal River Inn indicating no motorcycle parking along the shared property line.
- No outdoor games or music after midnight Sunday through Thursday and gaming hours clearly posted within facility and gaming areas.

In addition, the original permit application noted that there would be no amplified music. Despite this, no condition has been placed on this CUP regarding music or speakers. Staff interprets this to mean no live music was proposed, but the Commission has the ability to clarify by adding a condition regarding live music. The Commission may wish to discuss amplified and live music.

Staff recommends approval with the following conditions:

- 1. The permit shall be valid for one (1) year, provided standards are met, subject to the point system;**
- 2. Signage shall be provided along the side property line adjacent to Crystal River Inn indicating no motorcycle parking along the shared property line;**
- 3. No outdoor games or music after midnight Sunday through Thursday and gaming hours clearly posted within facility and gaming areas.**

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

Commission's Responsibility:

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

The Commission's decision is discretionary. 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.

Prepared by:

John Stanley

Planner

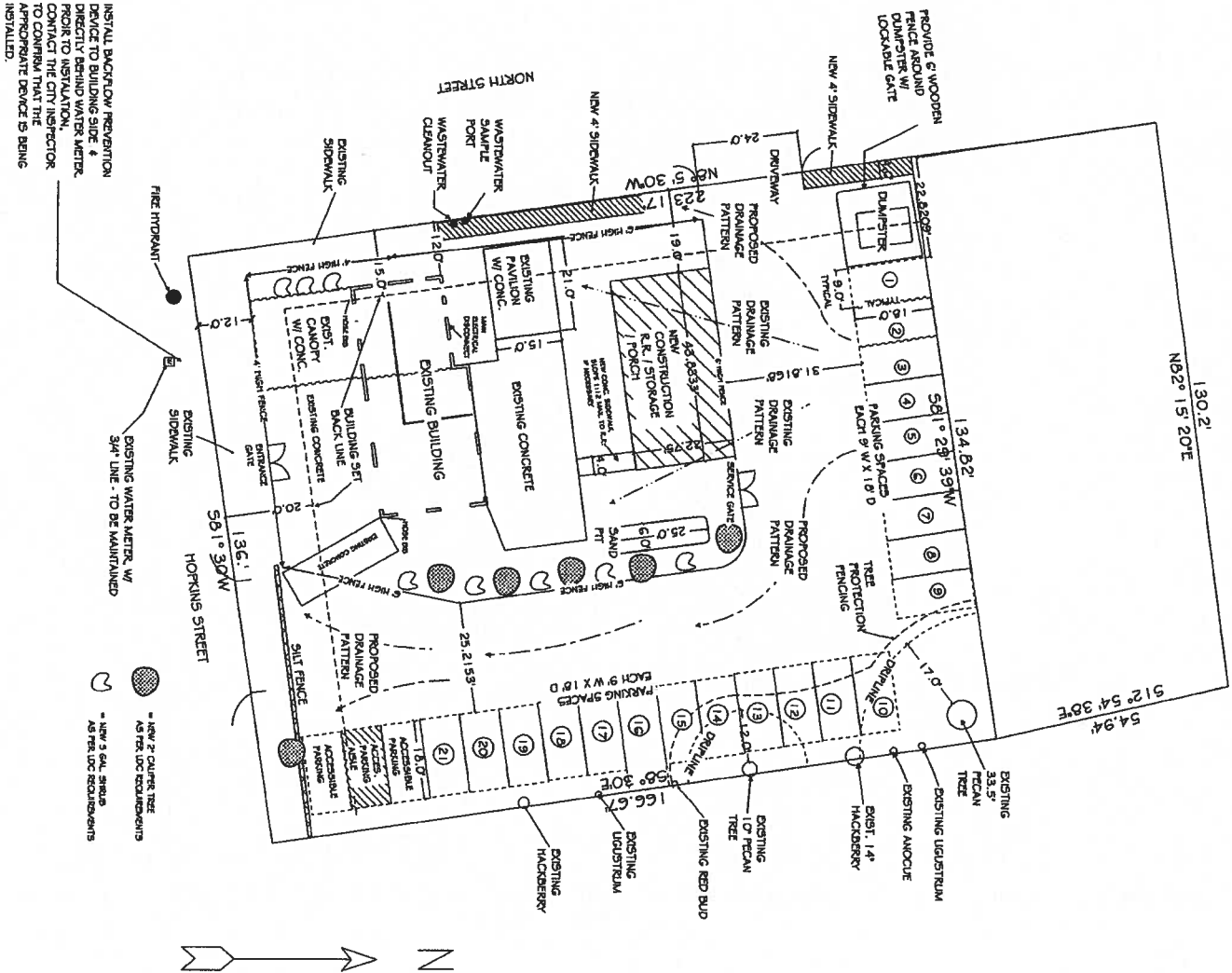
6/6/12

Name

Title

Date

2011 NOV 16 PM 3 16



INSTALL BACKFLOW PREVENTION DEVICE TO BUILDING SIDE & DIRECTLY BEHIND WATER METER. PROBE TO INSTALLATION. CONTACT THE CITY INSPECTOR TO CONFIRM THAT THE APPROPRIATE DEVICE IS BEING INSTALLED.

- = NEW 2" CULVERT TREE AS PER UDC REQUIREMENTS
- = NEW 3 GAL. BRUSH AS PER UDC REQUIREMENTS

1313 W. San Antonio Citizen Response

Name	Address	Comment
Mike and Cathy Dillon	326 W. Hopkins	Provided letters from self and patrons regarding noise. See attached.
Lisa Campbell	Amarillo, TX	CRI Visitor, Concerns about noise, see attached letter.
Thomas Scott	331 W. Hopkins	Letter attached.
Brenda Smith	323 W. Hopkins	Letter attached.