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**PLANNING COMMISSION SITE PLAN  
CONDITIONAL USE PERMIT REVIEW SHEET**

**CASE NUMBER:** SPC-2010-0288A **PLANNING COMMISSION  
HEARING DATE:** June 14, 2011

**PROJECT NAME:** Pepper's Bistro

**ADDRESS:** 1926 E. Riverside Dr.

**NEIGHBORHOOD PLAN:** Riverside Neighborhood Plan

**APPLICANT:** Pepper's Bistro (Raul Aguilar 799-6744)  
1926 E. Riverside Dr  
Austin, TX 78741

**AGENT:** AEC Inc (Phil Moncada 627-8815)  
1301 S. IH 35, Suite 204  
Austin, TX 78741

**CASE MANAGER:** Sarah Graham Phone: 974-2826  
[sarah.graham@ci.austin.tx.us](mailto:sarah.graham@ci.austin.tx.us)

**PROPOSED DEVELOPMENT:**  
The proposed site plan requests approval of a conditional use permit for a Cocktail Lounge in a CS-1 zoning district.

**SUMMARY STAFF RECOMMENDATION:**  
Staff recommends approval of the conditional use permit.

**PROJECT INFORMATION:**

<b>SITE</b>	4,000 square feet	.09 acres
<b>TOTAL TRACT AREA</b>	246,854 square feet	5.667 acres
<b>SITE'S ZONING</b>	CS-1-NP	
<b>WATERSHED</b>	Town Lake (Urban)	
<b>WATERSHED ORDINANCE</b>	Comprehensive Watershed Ordinance	
<b>TRAFFIC IMPACT ANALYSIS</b>	Not required	
<b>CAPITOL VIEW CORRIDOR</b>	None	
<b>PROPOSED ACCESS</b>	E. Riverside Dr., Town Creek Dr., or Arena Dr.	
	<b>Existing</b>	<b>Proposed</b>
<b>FLOOR-AREA RATIO</b>	.216:1	.216:1
<b>BUILDING COVERAGE</b>	53,419 sq ft (21.6%)	53,419 sq ft (21.6%)
<b>IMPERVIOUS COVERAGE</b>	92.1%	92.1%
<b>PARKING</b>	312 spaces existing	297 spaces <i>required</i>

**SUMMARY COMMENTS ON SITE PLAN:**  
Land Use: The applicant is requesting approval of a Conditional Use Permit for a Cocktail Lounge use. Pepper's Bistro, located at 1926 E. Riverside was red-tagged in 2005 by City of Austin's Code Compliance for not having a Certificate of Occupancy for their correct land use.

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Pepper's Bistro had been permitted as a Restaurant (General). This type of restaurant is able to sell and consume alcoholic beverages on-premises as an accessory use, but Pepper's Bistro was not meeting the 51% food sales requirement to be considered a restaurant. In 2010, the applicant submitted a land use change for the Conditional Use of a Cocktail Lounge in CS-1-NP zoning. No construction is proposed with this site plan application.

1926 E. Riverside, a 4,000 sq ft tract within the existing strip mall, was rezoned to C-2 zoning in 1973. In 1986, the Land Development Code was reformatted and "C-2" was renamed to "CS-1" – Commercial Liquor Sales. A Cocktail Lounge is a Conditional Use within CS-1 zoning.

The Texas Alcoholic Beverage Commission (TABC) has been issuing Pepper's Bistro alcohol sales licenses, food and beverage permits, and a late hour license since at least 2007. In 2009, the owner of the strip mall requested a land use change for 1930 E. Riverside Dr., 2 units down within the trip mall, to Religious Assembly through a Site Plan Exemption. City staff had a conversation with the TABC to see if Pepper's Bistro would have any future licensing issues with this proposed land use change to a Cocktail Lounge. TABC stated that since Pepper's Bistro was in existence prior to the Church's existence, that permitting would not be an issue.

Pepper's Bistro is a 4,000 sq ft unit within a larger strip mall development. The site in its entirety of 5.667 acres contains two zoning categories: GR-NP, and two spot-zoned CS-1-NP units. The site includes one large existing 1-story and partially 2-story commercial building with multiple units, as well as three pad site structures. The pad sites are all used as Restaurants, and the large commercial building includes Administrative Office, General Retail Sales, Medical Office, Personal Services, Religious Assembly and Restaurant (General). Sufficient parking for all known uses has been demonstrated on the site plan application.

**Transportation:** A traffic impact analysis was not required for this site plan. The site plan has met all Transportation requirements.

**Environmental:** The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Town Lake watershed, which is classified as an urban watershed. There are no environmental features or critical water quality zones affected by this project. No improvements to the property are included with this site plan. The site plan has met all Environmental requirements.

**RELATED CASES:** On November 15, 1973, Council passed C14-73-204 rezoned 1926 E. Riverside Drive from "GR" – General Retail to "C-2" – Commercial (including a cocktail lounge). In 1986, the Land Development Code was reformatted and "C-2" was renamed to "CS-1" – Commercial Liquor Sales.

**EXISTING ZONING AND LAND USES:**

	ZONING	LAND USES
Site	CS-1-NP	Proposed Cocktail Lounge
Entire tract	GR-NP and CS-1-NP	Administrative Office, General Retail Sales, Medical Office, Personal Services, Religious Assembly and Restaurant (General)
Northeast	MF-3-NP	Multifamily then Arena Drive
Southeast	GR-NP	Town Creek Drive, then Personal Services, Administrative Office and Restaurant (Limited)

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Southwest	GR-NP, CS-NP and CS-1-NP	E. Riverside Drive, then Restaurant (General), General Retail Sales, Personal Services, and Cocktail Lounge
Northwest	GR-NP and MF-3-NP	Arena Dr, then Automotive Repair Services and Multifamily

**ABUTTING STREETS:**

Street	Right-of-Way Width	Pavement Width	Classification
E. Riverside Dr	177 ft	80 ft	MAD 6 Arterial (major arterial divided), Core Transit Corridor
Town Creek Dr	60 ft	35 ft	Collector
Arena Dr	55 ft	35 ft	Local

**NEIGHBORHOOD ORGANIZATIONS:**

- 74 – South River City Citizens Association
- 299 – Crossing Garden Home Owners Association
- 498 – South Central Coalition
- 511 – Austin Neighborhoods Council
- 739 – East Riverside/Oltorf Neighborhood Plan – COA Liaison
- 742 – Austin Independent School District
- 763 – East Riverside/Oltorf Neighborhood Plan Contact Team
- 781 – Southeast Coalition
- 786 – Home Builders Association of Greater Austin
- 794 – Waterfront Condominium HOA
- 972 – PODER
- 1004 – Save Town Lake.ORG
- 1037 – Homeless Neighborhood Assn.
- 1075 – League of Bicycling Voters
- 1113 – Austin Parks Foundation
- 1200 – Super Duper Neighborhood Objectors and Appealers Organization
- 1224 – Austin Monorail Project
- 1228 – Sierra Club, Austin Regional Group
- 1236 – The Real Estate Council of Austin, Inc
- 1243 – Waterfront Planning Advisory Board
- 1255 – Pleasant Valley
- 1258 – Del Valle Community Coalition

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## CONDITIONAL USE PERMIT REVIEW AND EVALUTATION CRITERA

The following evaluation is included to provide staff's position on each point of the conditional use permit criteria. Section 25-5-145 of the Land Development Code (EVALUATION OF CONDITIONAL USE SITE PLAN) states:

A. The Land Use Commission shall determine whether the proposed development or use of a conditional use site plan complies with the requirements of this section.

**B. A conditional use site plan must:**

**Comply with the requirements of this title;**

Staff Response: This site plan complies with all regulations and requirements of the Land Development Code.

**Comply with the objectives and purposes of the zoning district;**

Staff response: This application complies with the objectives and purposes of the zoning district.

**Have building height, bulk, scale, setback, open space, landscaping, drainage, access, traffic circulation, and use that is compatible with the use of an abutting site;**

Staff Response: It is very likely this site has seen little to no site improvements in decades, and has been in the same configuration since the original structure was built in the 1960s. The site has been permitted numerous land use changes and minor construction additions through Site Plan Exemptions. Staff is aware that this site is likely to be redeveloped within the next 5 to 10 years. Although the site does not comply with current code (such as landscaping or drainage requirements), it is pre-existing and legally developed.

**Provide adequate and convenient off-street parking and loading facilities; and**

Staff Response: The existing parking meets the parking requirements for the proposed use and is adequate.

**Reasonably protect persons and property from erosion, flood, fire, noise, glare, and similar adverse effects.**

Staff Response: The site plan will comply with all requirements of the Land Development Code including Compatibility Standards. The proposed land use will no more adversely affect the health, safety, and welfare of persons and property than existing land uses.

**C. In addition, a conditional use site plan may not:**

**More adversely affect an adjoining site than would a permitted use;**

The proposed site plan complies with all development regulations of the CS-1-NP zoning district.

**Adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area; or**

Staff Response: This proposed site plan does not more adversely affect an adjoining site than would a permitted use. The buildings and parking area are current conditions.

**Adversely affect an adjacent property or traffic control through the location, lighting, or type of a sign.** Staff Response: All signs and lighting will comply with the Land Development Code.

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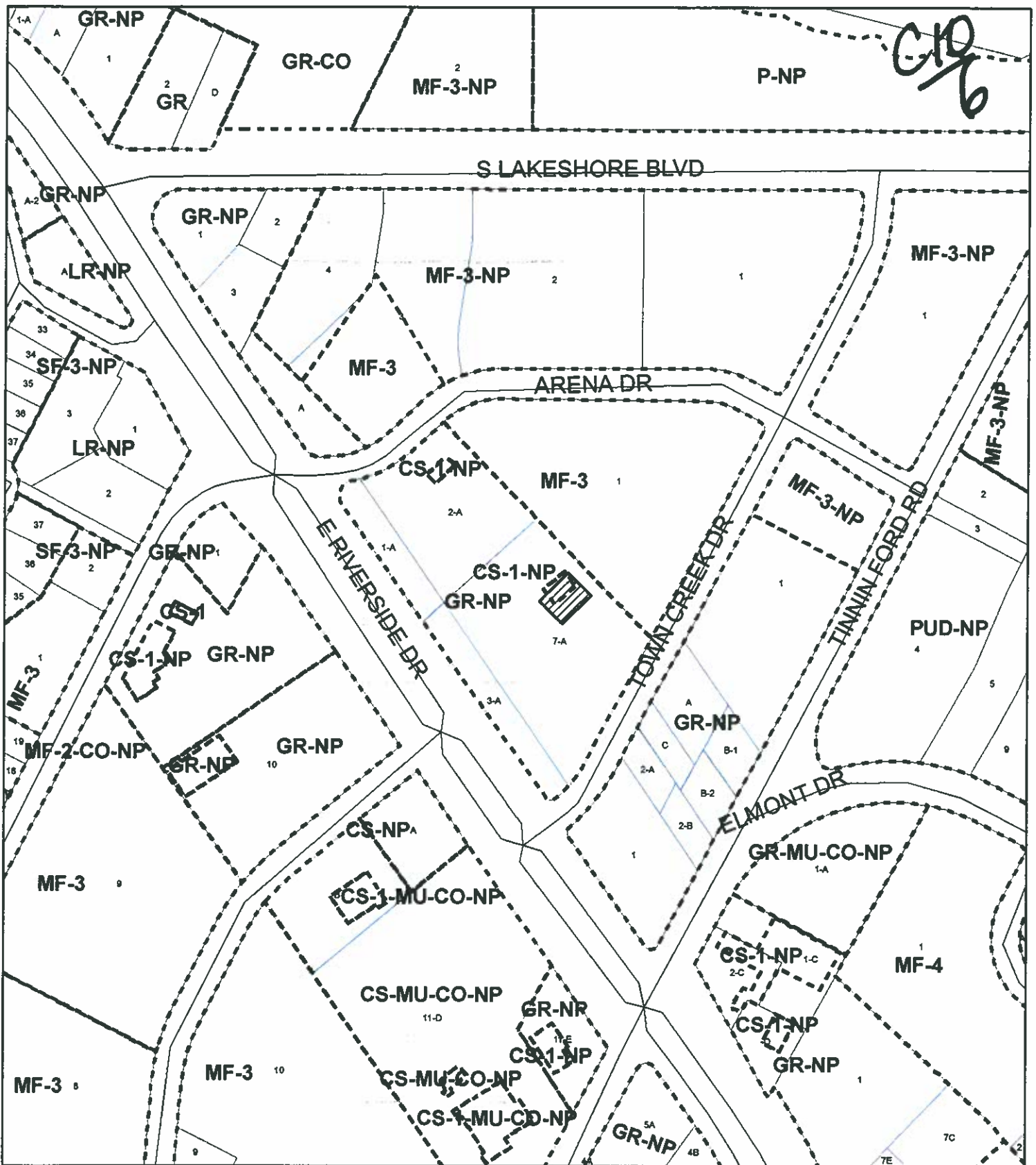
**D. A site plan may not adversely affect the public health, safety, or welfare, or materially injure property. If the Land Use Commission determines that a site plan has an adverse effect or causes a material injury under this subsection, the Land Use Commission shall identify the adverse effect or material injury.**

In addition, Sec. 25-5-146 (CONDITIONS OF APPROVAL) states:

(A) To make a determination required for approval under Section 25-5-145 (Evaluation Of Conditional Use Site Plan), the Land Use Commission may require that a conditional use site plan comply with a condition of approval that includes a requirement for:

- (1) a special yard, open space, buffer, fence, wall, or screen;
- (2) landscaping or erosion;
- (3) a street improvement or dedication, vehicular ingress & egress, or traffic circulation;
- (4) signs;
- (5) characteristics of operation, including hours;
- (6) a development schedule; or
- (7) other measures that the Land Use Commission determines are required for compatibility with surrounding uses or the preservation of public health, safety, or welfare.

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SITE PLAN

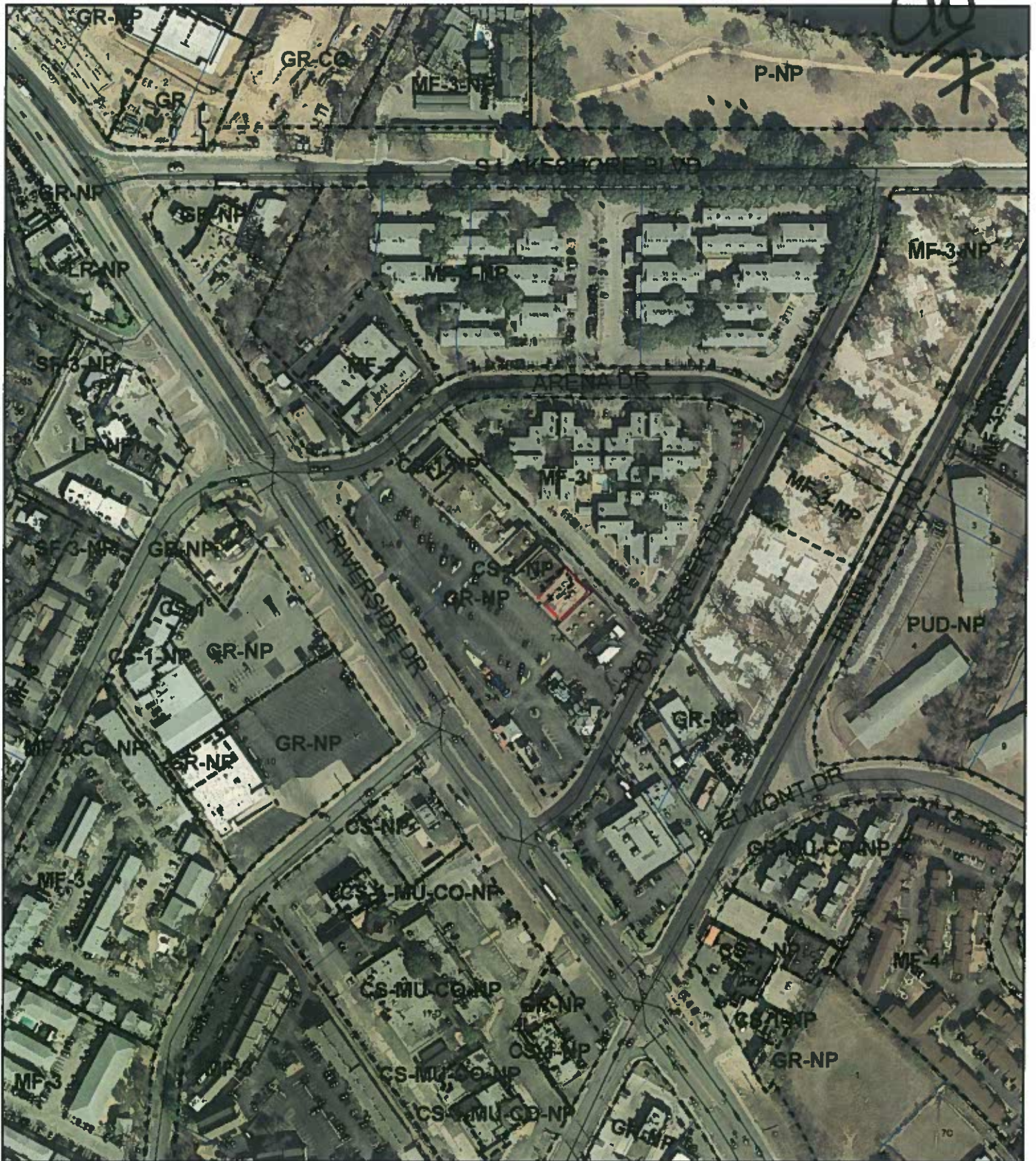


CASE#: SPC-2010-0288A  
 ADDRESS: 1926 E. RIVERSIDE DR  
 MANAGER: SARAH GRAHAM



This map has been produced by site plan review for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

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SITE PLAN



 SUBJECT TRACT

 ZONING BOUNDARY

0 125 250 500 Feet

CASE#: SPC-2010-0288A  
 ADDRESS: 1926 E. RIVERSIDE DR  
 MANAGER: SARAH GRAHAM



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- SCALE: 1"=40'
- LEGEND
- PRIORITY LINE
  - FIRE HYDRANT
  - POST HOLE
  - LIGHT POLE
  - SEWER MANHOLE
  - STAKE
  - UTILITY
  - CONCRETE DRIVEWAY UTILITY
  - ENCLOSURE FOOTING
  - CONCRETE DRIVEWAY

**UNIFIED DEVELOPMENT NOTE**

THE SITE IS COMPOSED OF 1.000 ACRES. THE SITE APPROXIMATELY 1.000 ACRES. THE SITE APPROXIMATELY 1.000 ACRES. THE SITE APPROXIMATELY 1.000 ACRES.

**ACCESSIBLE ROUTE SLOPE**

FOR ACCESSIBLE ROUTES TO EXCEED A MAXIMUM SLOPE OF 1:12, THE FOLLOWING TABLE SHALL BE USED TO DETERMINE THE REQUIRED WIDTH OF THE ROUTE.

WHEELCHAIR	WHEELCHAIR	WHEELCHAIR
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A 6" WIDER SIDE WALK SHALL BE PROVIDED ON BOTH SIDES OF WALK.

**NOTES**

- REFER TO SHEET 03 FOR APPROXIMATE COVER CALCULATIONS.
- REFER TO SHEET 04 FOR APPROXIMATE ELEVATION TABLE.
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**SITE PLAN RELEASE**

DATE: 4/8/2011

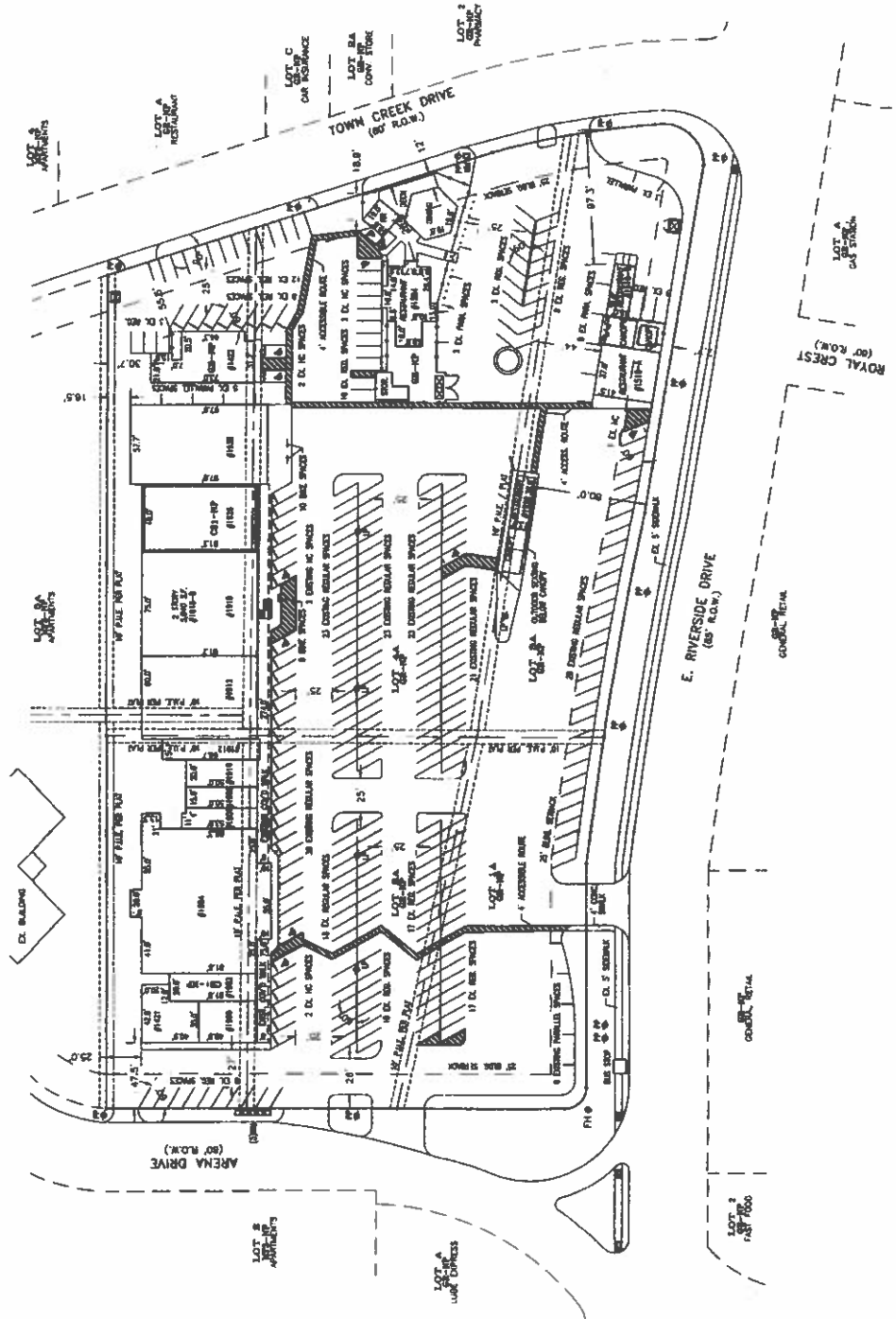
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DRAWING NO.

FILE NUMBER

SHEET 2 OF 3 SHEETS

CASE NO. SPC-2010-0288A



*C/O*



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9**Graham, Sarah**

**From:** Toni House ~~[REDACTED]~~  
**Sent:** Thursday, May 05, 2011 3:18 PM  
**To:** 'sully.jumpnet@sbcglobal.net'; 'amdealey@aol.com'; 'vskirk@att.net';  
'dave.anderson.07@gmail.com'; danette.chimenti@gmail.com;  
'tbui.planningcommission@gmail.com'; 'mnrghatfield@yahoo.com';  
'alfonsohernandez@gmail.com'  
**Cc:** Graham, Sarah; 'Terry & Barb Fox'; jlong91@austin.rr.com; 'Linda J. Watkins'; 'Malcolm Yeatts';  
'Dawn Cizmar'; 'Carl Braun'; 'Linda Land'; gayle.goff@gmail.com; 'John Harms';  
jeanmather3@gmail.com; Judy Price; May, Mike; Krebs, Fred; Toni House; 'Sarah Campbell'  
**Subject:** 5/10/11 Agenda Item \_\_\_\_: Case No. SPC-2010-0288A; Pepper's Bistro Change of Use

Dear Chairman Sullivan and Commissioners:

Please deny the requested change of use from restaurant/bar to cocktail lounge/liquor sales with late night hours. Our area has more than its fair share of late-night bars and APD's public intoxication reports for this area are ridiculously high already. For the period of 1/1/11 through 4/29/11, approximately **one-quarter** of the public intoxication reports for zip code 78741 were **within walking distance** of the Pepper's Bistro location.\*

Please consider the 20,000 sq. ft. of cocktail lounge/liquor sales allowed for the Grayco PUD development, plus the 9,000 sq. ft. of cocktail lounge/liquor sales allowed for the Cypress Lakeshore PUD development, in addition to the existing numerous late night bars/nightclubs already up, down and near E. Riverside, and it becomes clear that we don't need any more late night venues serving alcohol.

At its General Membership meeting held May 2, 2011, the South River City Citizens Neighborhood Association voted to support the E. Riverside/Oltorf Neighborhood Plan Contact Team in its opposition to this change. Thank you for your consideration. (Please include this email in the case file.)

\*(Zip code 78741 includes all of the EROC NPA, in addition to the Montopolis NPA. I have not yet completed my review of 2010 and 2009 public intoxication reports (961 total) to determine how many of those were within walking distance of 1926 E. Riverside Dr. I did not include any drunk driving, robbery or assault reports  only public intoxication reports, in my count.)

Sincerely,  
/s/ Toni House, Secretary  
EROC NPCT & SRCC Member  
1503 Inglewood Street  
Austin, TX 78741  
Office: 225-0016; Home: 447-8090

cc: EROC NPCT  
Sarah Campbell, President of SRCC  
Sarah Graham, Case Manager

5/5/2011

**PUBLIC HEARING INFORMATION**

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

A zoning ordinance amendment may include a conditional overlay which would include conditions approved by the Land Use Commission or the City Council. If final approval is by a City Council's action, there is no appeal of the Land Use Commission's action.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (it may be delivered to the contact listed on a notice); or
- appearing and speaking for the record at the public hearing;

- and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 14 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: [www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development).

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: SPC-2010-0288A

Contact: Sarah Graham, 512-974-2826 or Michelle Casillas, 512-974-2024

Public Hearing: Planning Commission, May 10, 2011

Randall A. Reessler  
Your Name (please print)

I am in favor  
 I object

1806 E Riverside Dr (Tiffy Lybe)  
Your address(es) affected by this application

Randall Reessler  
Signature  
May 3 2011  
Date

Daytime Telephone: 512 947-9274

Comments: This is a good idea. We need nice type places on E. Riverside

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you use this form to comment, it may be returned to:  
City of Austin

Planning and Development Review - 4<sup>th</sup> floor  
Sarah Graham  
P. O. Box 1088  
Austin, TX 78767-8810

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