

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

**CASE NUMBER:** SPC-2015-0301AT      **PC DATE:** September 13, 2016

**PROJECT NAME:** Fair Market

**ADDRESS:** 1101 E 5<sup>th</sup> St.

**NEIGHBORHOOD PLAN:** East Cesar Chavez

**APPLICANT:** Montwalk Holdings, Ltd. (Richard Kooris) 713-659-6060  
1331 Lamar  
Houston, TX 77010

**AGENT:** LOC Consultants (Sergio Lozano, P.E.) – 512-524-0677  
1715 E 7<sup>th</sup> St.  
Austin, TX 78702

**AREA:** 37,674.50 sq. ft. site area

**DISTRICT:** 3

**WATERSHED:** Waller Creek (Urban)

**WATERSHED ORDINANCE:** Comprehensive

**C.I.P. STATUS:** N/A

**T.I.A.:** N/A

**CAPITOL VIEW:** N/A

**PROPOSED DEVELOPMENT:**

The applicant is requesting approval of a Conditional Use Permit for Indoor Entertainment in Transit-Oriented Development (TOD) zoning.

**EXISTING ZONING:**

The property is located within the Plaza Saltillo TOD district, and within the TOD-Mixed Use Subdistrict. The site is subject to all zoning regulations within the Plaza Saltillo TOD regulating plan. Indoor Entertainment is a conditional use in TOD-Mixed Use Subdistrict.

**STAFF RECOMMENDATION:**

Staff recommends approval of the conditional use permit with the condition that all transportation review comments are cleared prior to site plan approval. The site plan will comply with all requirements of the Land Development Code prior to site plan approval.

**CASE MANAGER:** Donna Galati      Telephone: 512-974-2733  
[Donna.Galati@austintexas.gov](mailto:Donna.Galati@austintexas.gov)

**PROJECT INFORMATION:** 37,674.50 sq. ft.

**EXIST. ZONING:** TOD-Mixed Use

**ALLOWED F.A.R.:** 2:1

**MAX. BLDG. COVERAGE:** 95%

**MAX. IMPERVIOUS CVRG.:** 95%

**REQUIRED PARKING:** 13

**PROPOSED F.A.R.:** 0.4:1

**PROPOSED BLDG. CVRG:** 43.37%

**PROPOSED IMPERVIOUS CVRG:** 50.33%

**PROVIDED PARKING:** 4 On-site, 2 On-street, 9 Off-site

**Proposed Access:** E 5<sup>th</sup> St. & Alley

**SUMMARY COMMENTS ON SITE PLAN:**

**Land Use:** The proposed indoor entertainment use is a conditional use in the Mixed-Use Subdistrict of the Plaza Saltillo TOD. The existing building onsite has been used recently as art gallery space and as temporary event space. This CUP will allow a permanent use, enabling the applicant to forego ongoing temporary permitting efforts.

**Environmental:** This site is located in the Waller Creek Watershed. All Environmental comments are cleared.

**Transportation:** Staff recommendation is to approve the CUP with the condition that all transportation comments are cleared prior to site plan approval:

- An off-site parking lease is required in accordance with the City of Austin standards for the required 9 vehicular off-site parking spaces. A site plan correction is required for Corazon (SP-2011-0307C) to account for the off-site parking spaces.

**SURROUNDING CONDITIONS:**

**Zoning/ Land Use**

|               |   |
|---------------|---|
| <b>North:</b> | Alley, then TOD - Mixed Use (personal services and parking)       |
| <b>East:</b>  | Waller Street, then TOD – Mixed Use (Office)                      |
| <b>South:</b> | E. 5 <sup>th</sup> St., then TOD – Mixed Use (Pine Street market) |
| <b>West:</b>  | Valazquez Plaza Parkland  |

**NEIGHBORHOOD ORGNIZATIONS:**

A.N.T. Artists and Neighbors Together  
 Austin Heritage Tree Foundation  
 Austin Independent School District  
 Austin Neighborhoods Council  
 Barrio Unido Neighborhood Assn.  
 BikeAustin  
 Capital Metro  
 Del Valle Community Coalition  
 East Austin Conservancy  
 East Cesar Chavez Neighborhood Planning Team  
 East Sixth IBIZ District  
 El Concilio Mexican-American Neighborhoods  
 Friends of Austin Neighborhoods  
 Friends of the Emma Barrientos MACC  
 Guadalupe Association for an Improved Neighborhood  
 Guadalupe Neighborhood Development  
 Organization of Central East Austin Neighborhoods (OCEAN)  
 Preservation Austin  
 SelTexas  
 Sierra Club, Austin Regional Group  
 Tejano Town  
 The Real Estate Council of Austin, Inc.  
 United East Austin Coalition  
 Waller Creek Conservancy

Existing Street Characteristics:

| Name                  | ROW | Pavement | Classification |
|-----------------------|-----|----------|----------------|
| E 5 <sup>th</sup> St. | 80' | 30'      | Minor Arterial |
| Waller St.            | 60' | 18'      | Local          |

### **CONDITIONAL USE PERMIT**

**D. 25-5-145.** 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.

#### **§ 25-5-146 CONDITIONS OF APPROVAL.**

(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.

### **CONDITIONAL USE PERMIT REVIEW AND EVALUTATION CRITERA**

**A.** The following evaluation is included to provide staff position on each point of the conditional use permit criteria. Section 25-5-145 of the Land Development Code states: “The Planning Commission shall determine whether the proposed development or use of a conditional use site plan complies with the requirements of this section. A conditional use site plan must:

**B.**

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

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

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

Staff Response: The proposed Indoor Entertainment use is a conditional use in the Plaza Saltillo TOD, Mixed Use Subdistrict.

**3. 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: The site plan complies with all requirements of the Land Development Code. In addition, the site plan complies with setback and height requirements.

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

Staff Response: The site plan complies with off-street parking and loading facility requirements. The required parking spaces are located on and off site.

**5. 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 and reasonably protects the health, safety, and welfare of persons and property.

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

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



A construction sales and service will have no more impact on adjoining properties than other permitted uses in the Plaza Saltillo regulation plan which could operate with similar or later hours than the proposed construction sales and service.

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

Staff Response: The site plan does not adversely affect the safety and convenience of vehicular and pedestrian circulation.

**8. 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.



 SUBJECT TRACT  
 ZONING BOUNDARY

0 80 160 320 Feet

CASE#: SPC-2015-0301AT  
 ADDRESS: 1101 E 5th St.  
 CASE NAME: Fair Market  
 MANAGER: Donna Galati

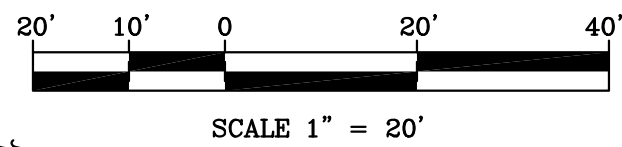
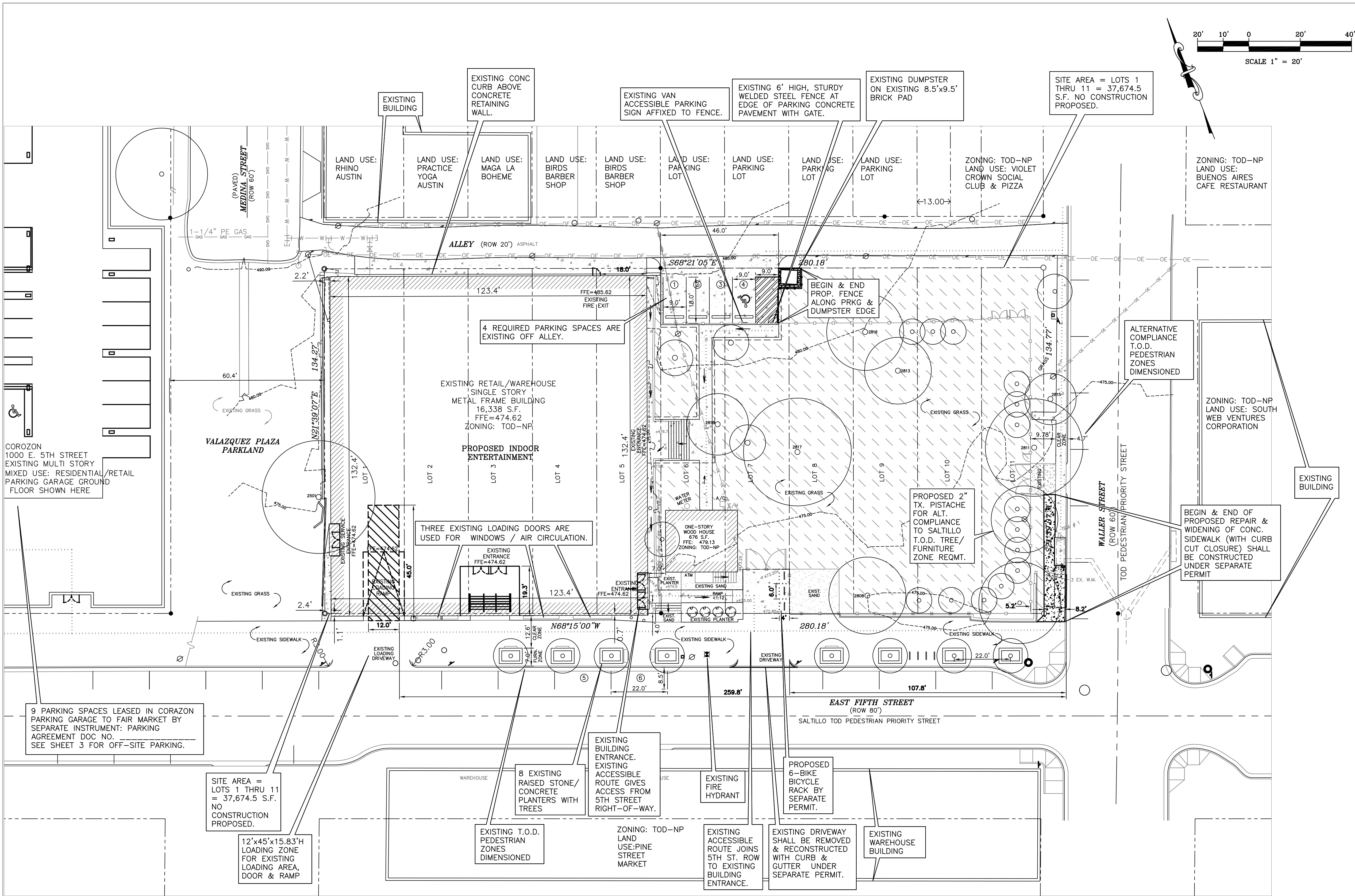
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



OPERATOR: D. Galati





LEGEND

— W — W — W — W —

— WW — WW — WW —

— OE — OE — OE —

— GAS — GAS — GAS —

— P —

— 475 —

— 2814 —

— 2814 —

— 2814 —

EXISTING PROPERTY LINE

EXISTING WATER LINE

EXISTING FIRE HYDRANT

EXISTING WASTEWATER LINE

EXISTING OVERHEAD UTILITY

EXISTING UTILITY POLE

EXISTING GAS LINE

EXISTING PARKING SIGN

EXISTING STOP SIGN

EXISTING PARKING METER

EXISTING REFUSE RECEPTACLE

EXISTING CONTOUR

EXISTING BUILDING

EXISTING CONCRETE

PROPOSED CONCRETE

EXISTING SAND

EXISTING PERVIOUS OPEN SPACE

EXISTING TREE

PROPOSED TREE

PROPOSED ACCESSIBLE ROUTE

SPECIAL PARKING DETERMINATION SCHEDULE B

Proposed Uses:

| Type*                            | Size     | Parking Rate         | Required Parking |
|----------------------------------|----------|----------------------|------------------|
| General Retail Sales             | 3,988 SF | 1 space per 275 SF   | 14               |
| Photography                      | 1,500 SF | 1 space per 275 SF   | 5                |
| Meeting Hall                     | 1,460 SF | 1 space per 50 SF    | 29               |
| Air Cooled                       | 6,890 SF | 1 space per 300 SF   | 23               |
| Indoor Storage                   | 2,000 SF | 1 space per 1,000 SF | 2                |
| Business and Professional Office | 676 SF   | 1 space per 275 SF   | 2                |
| Total Vehicular Parking          |          |                      | 77               |
| Total Bicycle Loading            |          |                      | 5                |
| Total Off-Street Loading         |          |                      | 1                |

Previous Uses:

| Type                      | Size      | Parking Rate         | Required Parking |
|---------------------------|-----------|----------------------|------------------|
| General Retail Sales      | 14,454 SF | 1 space per 275 SF   | 53               |
| Warehousing               | 1,804 SF  | 1 space per 1,000 SF | 2                |
| Single Family Residential | 1 unit    | 2 spaces per unit    | 2                |
| Total Required Parking    |           |                      | 57               |
| Total Vehicular Parking   |           |                      | 53               |
| Total Bicycle Loading     |           |                      | 5                |
| Total Off-Street Loading  |           |                      | 1                |

Total Required Vehicular Parking:

| Proposed | Previous |
|----------|----------|
| 77       | 53       |
| 5        | 5        |
| 1        | 1        |
| 83       | 59       |

\* The overall use for the Fair Market Conditional Use Permit is Indoor Entertainment. Indoor Entertainment as listed within 25-6 Appendix A, does not conform to the proposed use for Fair Market (i.e. it will not be used as a meeting hall, dance hall, liquor sales, or theater). The special parking determination has been completed based on the proposed use for Fair Market as provided by the applicant, and the parking rates have been determined by uses within 25-6 Appendix A.

\*\* This change of use site plus qualifies for the parking deficiency and has been calculated based on TCM 9.7.1.C - Change of Occupancy. The calculations have been derived from previous uses certificates of occupancy from 2012 and 2014.

\*\*\* The required vehicular parking total is the minimum required parking per Appendix A, prior to parking reductions from the Plaza Saltillo TOD.

PARKING TOTAL:

REQUIRED PARKING:

SALTILLO T.O.D. PKG REDUCTION 40%:

ON STREET PARKING REDUCTION 10%:

TOTAL PARKING REQUIRED:

ON SITE

OFFSITE (CORAZON GARAGE):

TOTAL PARKING PROVIDED:

BICYCLE PARKING

LOADING ZONE

25 SPACES

10 SPACES

2 SPACES

13 SPACES

4 SPACES

9 SPACES

13 SPACES

6 SPACES

1 SPACES

ALL RESPONSIBILITY FOR THE ADEQUACY THESE PLANS REMAINS WITH THE ENGINEER. APPROVAL OF THESE PLANS BY THE CITY OF AUSTIN DOES NOT REMOVE THESE RESPONSIBILITIES.

REVIEWED BY

PLANNING AND DEVELOPMENT REVIEW DEPARTMENT

DATE

SITE PLAN APPROVAL

Sheet 2 of 3

FILE NUMBER: SPC-2015-0301AT APPLICATION DATE: 07/06/2015

APPROVED BY COMMISSION ON: UNDER SECTION: 112 OF CHAPTER: 25-5 OF THE CITY OF AUSTIN CODE

EXPIRATION DATE (25-5-81.LDC) CASE MANAGER:

PROJECT EXPIRATION DATE (ORD, 970905-A) DWPZ DDZ

Director, Development Services Department

Released for General Compliance: Zoning:

Rev. 1 Correction 1

Rev. 2 Correction 2

Rev. 3 Correction 3

SITE PLAN NUMBER: SPC-2015-0301AT

| EXISTING BUILDING SUMMARY TABLE<br>(NO CONSTRUCTION PROPOSED) |   |              |   |
|---|---|--------------|---|
| EXISTING USE:   | RETAIL/WAREHOUSE  | 16,338 S.F.  |   |
|   | SINGLE FAMILY   | 676 S.F.     |   |
| TOTAL:  |   | 17,014 S.F.  |   |
| PROPOSED USE:   | INDOOR ENTERTAINMENT  | 16,338 S.F.  |   |
|   | SINGLE FAMILY   | 676 S.F.     |   |
| TOTAL:  |   | 17,014 S.F.  |   |
| EXISTING SQUARE FOOTAGE TO REMAIN:                            |   | 17,014 S.F.  |   |
| (GROSS SQUARE FOOTAGE TO REMAIN:                              |   | 17,014 S.F.) |   |
| FINISH FLOOR ELEV. COMMERCIAL                                 | 474.62, RESIDENCE   | 479.13       |   |
| NO. OF STORIES:   | COMMERCIAL  | 1, RESIDENCE | 1 |
| BUILDING HEIGHT:  | COMMERCIAL  | 23'-6"       |   |
| EXISTING FOUNDATION TYPE:                                     | SLAB ON GRADE   |              |   |
| EXISTING BUILDING:  | TYPE II-B FITTED WITH APPROVED AUTOMATIC SPRINKLER SYSTEM THROUGHOUT. |              |   |
| MAX BLDG. ELEVATION ALLOWED:                                  | 498.12  |              |   |

NOTES:

1. APPROVAL OF THESE PLANS BY THE CITY OF AUSTIN INDICATES COMPLIANCE WITH APPLICABLE CITY REGULATIONS ONLY. COMPLIANCE WITH ACCESSIBILITY STANDARDS SUCH AS THE 2010 STANDARDS FOR ACCESSIBLE DESIGN OR THE 2012 TEXAS ACCESSIBILITY STANDARDS WAS NOT VERIFIED. THE APPLICANT IS RESPONSIBLE FOR COMPLIANCE WITH ALL APPLICABLE ACCESSIBILITY STANDARDS.

2. NONE OF THE ON-STREET SPACES ARE RESERVED FOR THE DEVELOPMENT AND MAY BE USED BY ANY MEMBER OF THE PUBLIC. THE DEVELOPER SHALL BE AWARE THAT THEY CAN COUNT ON-STREET SPACES AT THEIR OWN RISK; THE SPACES MAY BE REMOVED AT ANY TIME FOR ANY REASON AND THE CITY OF AUSTIN WILL NOT RELOCATE DISPLACED ON-STREET PARKING. IN ADDITION, IF THE ADJOINING STREET APPLIES FOR AND RECEIVES RESIDENTIAL PERMIT PARKING, THE PARKING FOR THE DEVELOPMENT WILL NOT COUNT AS RESIDENTIAL PARKING AND THE RESIDENTS WILL NOT RECEIVE RESIDENTIAL PARKING PERMITS.

| ZONING REQUIREMENTS: |              |                    |
|----------------------|--------------|--------------------|
| ZONING               | TOD-NP       |                    |
| LOT AREA             | 37,674.50 SF |                    |
|                      | ALLOWED      | EXISTING /PROPOSED |
| BUILDING HEIGHT      | 60'          | 23'-6"             |
| BUILDING COVERAGE    | 95%          | 16,339 SF 43.37%   |
| IMPERVIOUS COVER     | 95%          | 18,962 SF 50.33%   |
| FLOOR AREA RATIO     | 2:1          | 0.4 : 1            |
| SETBACKS             | NONE         | NONE               |

MULTIPLE LOTS NOTE

THE SITE IS COMPOSED OF 11 LOTS/TRACTS. IT HAS BEEN APPROVED AS ONE COHESIVE DEVELOPMENT. IF PORTIONS OF THE LOTS/TRACTS ARE SOLD, APPLICATION FOR SUBDIVISION AND SITE PLAN APPROVAL MAY BE REQUIRED.

LEGAL DESCRIPTION

LOTS 1-11, BLOCK 4, OUTLOT 2, DIVISION A, TAYLORS SUBDIVISION, A SUBDIVISION IN THE TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME Z, PAGES 612, PLAT RECORDS , TRAVIS COUNTY, TEXAS.

NOTES:

1. NO CONSTRUCTION IS PROPOSED. THIS IS A CHANGE OF USE SITE PLAN ONLY.

2. NO COMPATIBILITY REQUIRED. THERE ARE NO RESIDENTIAL USE PROPERTIES WITHIN 350' OF THE SITE.

3. THIS USE WILL NOT BE A COCKTAIL LOUNGE OR LATE-HOURS RESTAURANT.

| REVISIONS / CORRECTIONS |             |
|-------------------------|-------------|
| NO.                     | DESCRIPTION |
|                         |             |
|                         |             |
|                         |             |
|                         |             |

FAIR MARKET

1100 EAST 5TH STREET

AUSTIN, TEXAS 78702

CONDITIONAL USE SITE PLAN

LOC Consultants, LLP

Civil, Structural, & Environmental Engineers

FIRM No. 4756

1715 East 7TH STREET

Austin, Texas 78702

Ph. (512)524-0677

SHEET:

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AUG 2016

OF 3