

**CITY COUNCIL APPEAL SITE PLAN  
CONDITIONAL USE PERMIT REVIEW SHEET**

**CASE NUMBER:** SPC-2019-0478A      **CITY COUNCIL DATE:** August 8, 2019

**PROJECT NAME:** Plaza Saltillo Block E Texaco

**ADDRESS:** 1300 E 4<sup>th</sup> Street, Building C

**COUNCIL DISTRICT # 3:** Councilmember Sabino “Pio” Renteria

**NEIGHBORHOOD PLAN:** East Cesar Chavez

**APPLICANT:** Capital Metropolitan Transportation Authority (Todd Hemingson)  
2910 E 5<sup>th</sup> Street (512) 369-6295  
Austin, TX 78702

**AGENT/ APPELLANT:** Armbrust & Brown, PLLC (Richard Suttle)  
100 Congress Avenue, Suite 1300 (512) 435-2300  
Austin, TX 78701

**PLANNING COMMISSION ACTION:**

March 26, 2019: Postponed to April 9, 2019

April 9, 2019: Postponed to May 14, 2019

May 14, 2019: The Planning Commission passed a motion to deny the Conditional Use Permit for a proposed cocktail lounge.

The Planning Commission vote was 10-1-2

Those voting aye were: Chair Fayeze Kazi, Vice-Chair Conor Kenny, Commissioner Awaiz Azhar, Commissioner Yvette Flores, Commissioner Patrick Howard, Commissioner Karen McGraw, Commissioner Patricia Seeger, Commissioner James Shieh, Commissioner Robert Schneider, and Commissioner Todd Shaw

Those voting nay were: Commissioner Jeffrey Thompson

Those abstaining were: Commissioner Greg Anderson, and Commissioner James Schissler

**PROPOSED DEVELOPMENT:**

The applicant is requesting a conditional use permit for a cocktail lounge in two existing historic zoned structures (overall site zoned TOD-CURE-NP; immediate footprints of buildings zoned TOD-H-NP), totaling 3,583 sf of indoor space, and a proposed 3,200 sf outdoor seating area, for a grand total of 6,783 sf of CUP Cocktail Lounge space. No construction will occur with this permit but will be permitted either as a B-plan (construction site plan) or as a site plan exemption. Parking will be provided off-site.

**APPEAL REQUEST:**

The applicant is appealing the Planning Commission’s denial of a Conditional Use Permit for a proposed cocktail lounge.

**EXISTING ZONING:**

The overall site is zoned TOD-CURE-NP, and the immediate footprints of the existing buildings are zoned TOD-H-NP. The site is part of the Plaza Saltillo Transit Oriented Development Station Area Plan,

and it falls within the TOD Mixed Use subdistrict. This subdistrict allows the highest level of development activity in the TOD with the Cocktail Lounge land use being a Conditional Use within the subdistrict.

**SUMMARY STAFF RECOMMENDATION TO PLANNING COMMISSION:**

Staff recommended approval of the conditional use permit to Planning Commission. The site plan complies with all requirements of the Land Development Code and Plaza Saltillo TOD Regulating Plan, and the site is located in the highest intensity subdistrict of the Plaza Saltillo TOD.

**CASE MANAGER:** Anaiah Johnson Telephone: 974-2932 Email: [Anaiah.Johnson@austintexas.gov](mailto:Anaiah.Johnson@austintexas.gov)

**PROJECT INFORMATION:**

<b>SITE AREA:</b>	6,783 sf (cocktail lounge) / 10,906 sf (gross site area)	
<b>INTERIOR CUP AREA</b>	3,583 sq. ft.	
<b>OUTDOOR CUP PATIO</b>	3,200 sq. ft.	
<b>SITE ZONING</b>	TOD-CURE-NP; TOD-H-NP	
<b>PROPOSED ACCESS</b>	All parking is proposed off-site with no vehicular access proposed on-site	
	<b>Allowed</b>	<b>Proposed</b>
<b>FLOOR-AREA RATIO</b>	2:1	0.33:1
<b>BUILDING COVERAGE</b>	95%	3,583 sq. ft. 33%
<b>IMPERVIOUS COVERAGE</b>	95%	5,258 sq. ft. 48%
<b>PARKING</b>	136 spaces required	136 off-site

**AREA:** 0.25 acre site

**WATERSHED:** Waller Creek (Urban) & Lady Bird Lake (Urban)

**WATERSHED ORDINANCE:** Comprehensive Watershed Ordinance

**T.I.A.:** Approved

**CAPITOL VIEW:** N/A

**RELATED CASE:** N/A

**SUMMARY COMMENTS ON SITE PLAN:**

**Land Use:** The property is currently developed with two vacant buildings that have frontage on E 4<sup>th</sup> Street. According to the Plaza Saltillo TOD Regulating Plan § 2.3.5 (Figure 2-2 – *Plaza Saltillo TOD District Land Use Table*), a Cocktail Lounge land use is a Conditional Use within the TOD Mixed-Use subdistrict. The applicant is requesting the addition of 1,675 sq. ft. of flatwork for outdoor seating. The buildings were previously used as the Texaco Depot and are each designated as historic structures with the addition of “H” in their zoning strings on the exact footprints of the buildings. If approved, either a B-plan (construction site plan) or a site plan exemption will be sought to permit the improvements associated with this conditional use site plan permit.

**Environmental:** This site is located in the Waller Creek and Lady Bird Lake Watersheds and subject to Urban Watershed regulations. All Environmental comments are cleared.

**Transportation:** The parking requirements for this use will be achieved through off-site parking in the adjacent mixed use buildings with parking garages currently under construction. The site is subject to the approved TIA associated with zoning and site plan case numbers C14-2016-0049/C14-2016-0050/SP-2015-0479C/SP-2015-0480C. ATD has reviewed the change in land use proposed with this CUP and has no further requirement for analysis or mitigation.

## **SURROUNDING CONDITIONS:**

### **Zoning/ Land Use**

**North:** E 5<sup>th</sup> Street then TOD-NP (Light Manufacturing)

**East:** TOD-NP (KASITA / Food Truck Lot – no clear permits in system)

**South:** E 4<sup>th</sup> Street then TOD-NP (Limited Warehousing and Distribution)

**West:** Attayac Street Paseo and railroad tracks then TOD-CURE-NP (Mixed-use building including General Retail Services, Restaurant (General), and Multi-Family Residential)

## **NEIGHBORHOOD ORGNIZATIONS:**

A.N.T Artists and Neighbors Together  
Armbrust & Brown PLLC  
Austin Independent School District  
Austin Innercity Alliance  
Austin Neighborhoods Council  
Barrio Unido Neighborhood Association  
Bike Austin  
Black Improvement Association  
Capital Metro  
Capital Metro Transportation  
Claim Your Destiny Foundation  
Del Valle Community Coalition  
East Austin Conservancy  
East Cesar Chavez Neighborhood Association  
East Cesar Chavez Neighborhood Plan Contact Team  
East Sixth Ibiz District  
El Concilio Mexican-American Neighborhoods  
Friends of Austin Neighborhoods  
Greater East Austin Neighborhood Association  
Guadalupe Association for an Improved Neighborhood  
Guadalupe Neighborhood Development Corporation  
Homeless Neighborhood Association  
Neighborhood Empowerment Foundation  
Neighbors United for Progress  
Plaza Saltillo TOD Staff Liaison Planning and Zoning  
Preservation Austin  
SEL Texas  
Sierra Club, Austin Regional Group  
Tejano Town  
United East Austin Coalition  
Waller Creek Conservancy

## **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**

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:**

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

Staff Response: This application complies with the requirements of this title.

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

Staff Response: This application complies with the objectives and purposes of the zoning district. The TOD Mixed Use subdistrict of the Plaza Saltillo TOD zoning district allows the highest level of development activity in the TOD with the Cocktail Lounge land use being a Conditional Use within the 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: Yes, there are no SF-5 or more restrictive zoning districts or permitted land uses abutting the site.

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

Staff Response: Adequate parking and loading facilities have been provided off-site.

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

Staff Response: The proposed project does not contribute to any of the listed adverse effects.

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

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

The proposed site plan does not appear to more adversely affect an adjoining site than would a permitted use.

**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 cocktail lounge land use will be located on an already developed site (the historic designated former Texaco Depot), and is not anticipated to affect pedestrian or vehicular circulation.

**8. Adversely affect an adjacent property or traffic control through the location, lighting, or type of a sign.**

Staff Response: The site will comply with all applicable sign regulations in the Land Development Code and/or Plaza Saltillo TOD Regulating Plan.