

**PLANNING COMMISSION SITE PLAN
CONDITIONAL USE PERMIT APPEAL TO COUNCIL
REVIEW SHEET**

CASE NUMBER: SPC-2011-0034AT **COUNCIL HEARING DATE:** September 22, 2011

PROJECT NAME: The Dram Shop

ADDRESS: 907 E. 6th St.

NEIGHBORHOOD PLAN: Plaza Saltillo Transit-Oriented Development (TOD)

APPLICANT: BTV, GP LLC
Brandon Testa
910 E. 15th St.
Austin, TX 78702

AGENT: Shaw Hamilton
6815A Thorncliffe Dr.
Austin, TX 78731

APPELLANT: Brandon Testa (Applicant)

STAFF CONTACT: George Zapalac Phone: 974-2725
George.Zapalac@austintexas.gov

CASE MANAGER: Donna Galati Phone: 974-2733
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APPEAL:

Brandon Testa, the applicant, has appealed the Planning Commission's denial of a conditional use site plan for a cocktail lounge. In his appeal, Mr. Testa stated that no action was taken by the Planning Commission on this case. He references compliance with current City regulations, and references support letters from neighbors and surrounding business owners.

PROPOSED DEVELOPMENT:

The applicant is requesting a Conditional Use Permit for a 2,767 sq. ft. cocktail lounge and a variance for parking within 200 feet of single-family property. Parking will be provided on-site and off-site. The off-site parking is located at 901 and 905 E. 7th St., approximately 80 feet from three single-family homes on the opposite side of the street.

SUMMARY STAFF RECOMMENDATION:

Staff recommends approval of the parking variance and the appeal.

PLANNING COMMISSION ACTION:

A public hearing was conducted by Planning Commission on July 26, 2011. A motion to deny the site plan failed 3-4. Another motion to postpone the case to the following meeting date failed 4-3. No action was taken by the commission to approve this item; therefore, the application was denied.

PROJECT INFORMATION

6403 sq. ft. site area (2,767 sq. ft. cocktail lounge)

EXIST. ZONING: TOD-NP (Corridor Mixed-Use)

ALLOWED F.A.R.: 2:1

PROPOSED F.A.R.: 0.305:1

MAX. BLDG. COVERAGE: 95%

PROPOSED BLDG. CVRG: 43.2%

MAX. IMPERVIOUS CVRG.: 95%

PROPOSED IMPERVIOUS CVRG: 77.5%

EXISTING IMPERVIOUS CVRG: 79.7%

REQUIRED PARKING: 19

PROVIDED PARKING: 19 total

1 on-site, 18 off-site

Proposed Access: Alley

SUMMARY COMMENTS ON SITE PLAN:**Land Use:**

The property is zoned TOD-NP, and is in the Corridor Mixed-Use Subdistrict of the Plaza Saltillo Transit-Oriented Development District. A cocktail lounge is a Conditional Use in the Corridor Mixed-Use Subdistrict. The Corridor Mixed-Use Subdistrict is the most permissive in the TOD, allowing up to 60 feet of height and 95% impervious cover. The proposed development is a one-story structure with 14 feet of height and 78% impervious cover.

Before the Plaza Saltillo TOD, this property was zoned CS-1, in which cocktail lounge is also a Conditional Use. Staff recommends approval of the Conditional Use Permit for a cocktail lounge at this location. Throughout the Plaza Saltillo TOD stakeholder meetings and rezoning, this location remained a less restrictive zoning district, allowing for the Conditional Use Permit of a cocktail lounge. Additionally, the location is within two blocks of IH-35 and is surrounded by commercial development. The closest residential development to the north is located on the north side of E. 7th St., an arterial street, and is elevated above grade by approximately 5 ½ feet. The residences are zoned TOD-NP and are also designated for Corridor Mixed-Use Development. Residential development to the south is separated by railroad lines and located on the south side of East 3rd Street, over 900 feet from the lounge site.

Ground floor space is not required to accommodate active non-residential uses, although it is encouraged. The proposed site plan does accommodate active non-residential use. The patio is open and oriented to E 6th St. Sound from the patrons on the patio will be on the street side, and will be blocked and separated from the closest residential development to the north by arterials East 6th and E. 7th Streets and by buildings. The sound will be blocked from the closest residential development to the south by buildings, roads, and railroad lines.

The site plan is within a Capital View Corridor (Pleasant Valley Road at Lakeshore Drive). A Capital View Corridor review has been completed (case # C17-2010-0153). The building will be reviewed again for height compliance within the corridor during review of the construction site plan application.

This site plan complies with the Plaza Saltillo TOD regulating plan.

This site plan application is for the conditional land use only. Upon approval of this conditional land use permit, the applicant has 60 days to submit the site plan application for the construction element site plan application. After all comments on both plans have been addressed, both plans will be released at the same time and have the same expiration date (3 years from the date of Council approval).

Transportation: The site is within two blocks of IH-35, and is surrounded by commercial development. TOD Corridor Mixed-Use “is generally located on arterial streets farther away from the transit station” (2.3.6 Plaza Saltillo TOD). Access to the site will be from the alley.

Off-site accessory parking has been obtained for a majority of the parking. The off-site parking locations are within a block, at Brushy and E. 7th Streets. Patrons can use the existing sidewalks along E. 7th St., Brushy St., and E. 6th St.

The off-site parking requires a variance for parking within 200 feet of single-family use (Land Development Code 25-5-146-B). The purpose of this requirement is to discourage late-night pedestrian activity and noise adjacent to residential areas. The off-site parking is located at 901 and 905 E. 7th St., approximately 80 feet from three single-family homes on the opposite side of the street. The three single-family homes on the opposite side of E. 7th St. are elevated above the street level by a retaining wall approximately 5.5 feet high.

The applicant will construct a sidewalk along E. 6th St. in compliance with the TOD Pedestrian Priority Street regulations. The planting zone of the sidewalk will include street trees and benches.

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

SURROUNDING CONDITIONS:

Zoning/ Land Use

North: E. 6th St., then TOD-NP (Tortilleria)

East: TOD-NP (Antiques)

South: TOD-NP (mixed commercial: coffee shop, studio, personal services)

West: TOD-NP (auto repair)

NEIGHBORHOOD ORGNIZATIONS:

6—Barrio Unido Neighborhood Assn.

23—Old Pecan Street Assn.

30—Guadalupe Neighborhood Development

452—Guadalupe Association for an Improved Neighborhood

511—Austin Neighborhoods Council

623—City of Austin Downtown Commission

742—Austin Independent School District

744—Sentral Plus East Austin Koalition (SPEAK)

786—Home Builders Association of Greater Austin

960—Lower Waller Creek

966—Organization of Central East Austin Neighborhoods (OCEAN)

972—PODER

975—East Cesar Chavez Neighborhood Planning Team

1017—East River City Citizens

1037—Homeless Neighborhood Assn.

1075—League of Bicycling Voters

1113—Austin Parks Foundation

1189—Tejano Town

1199—United East Austin Coalition

1200—Super Duper Neighborhood Objectors and Appealers Organization

1220—Greater East Austin Neighborhood Association

1224—Austin Monorail Project

1228—Sierra Club, Austin Regional Group

1236—The Real Estate Council of Austin, Inc

1258—Del Valle Community Coalition

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. The site plan complies with the Plaza Saltillo TOD regulating document.

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

Staff Response: The proposed cocktail lounge use is a conditional use in Corridor Mixed-Use Subdistrict of the Plaza Saltillo TOD. The Corridor Mixed Use District is the most permissive mixed use subdistrict and is generally located on arterial streets farther away from the transit station. No minimum density is required, and a wide array of retail, office, and residential uses are permitted.

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 will comply with all requirements of the Land Development Code. In addition, the site plan complies with setback and height requirements. The development is compatible with existing commercial and industrial uses of abutting sites.

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 majority of spaces are provided off-site within one block and there is an existing sidewalk connecting the two locations.

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 applicable requirements of the Land Development

Code including Compatibility Standards, and reasonably protects the health, safety, and welfare of persons and property.

6. **For conditional use located within the East Austin Overlay district, comply with the goals and objectives of a neighborhood plan adopted by the City Council for the area in which the use is proposed.** Staff response: The proposed project is not in the East Austin Overlay.

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

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

A cocktail lounge will have no more impact on adjoining properties than other permitted uses in the Corridor Mixed-Use TOD zoning Subdistrict which could operate with similar or later hours than the proposed cocktail lounge. The site plan complies with all design and pedestrian-oriented elements of the Plaza Saltillo regulating plan through being open and oriented to the front of the site.

8. **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. The site enhances pedestrian circulation by providing a sidewalk to TOD pedestrian priority street standards.

9. **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.