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VIA EMAIL

June 17, 2013

Chairman Richard Klitenick
Commissioner James Gilleran
Commissioner Lisa Tennyson
Commissioner Gregory Oropeza
Commissioner Timothy Root
Commissioner Sam Holland
Commissioner Michael Browning

Re: Conditional Use Application – 146 – 150 Simonton Street
Agenda Item 2
June 20, 2013 Planning Commission Meeting

Dear Chairman Klitenick and Planning Commissioners,

On behalf of Smith Oropeza, P.L., I am writing to you to inform you of my firm's strenuous objection to the approval of the Conditional Use Application applied for by Trepanier and Associates for property located at 146 – 150 Simonton Street ("Property"). The Applicant has requested a conditional use for a 175 seat bar at the Property which is located directly adjacent to our offices in the same building. I have met with the Applicant's representative, Owen Trepanier, and explained our concerns, which have not been responded to or any mitigation offered for our various concerns.

For many of you that know our office, we are located in a large commercial building that houses a retail store, hair salon, flower shop, and shortly, a tanning salon and residential units upstairs. We did not receive any information regarding the proposed bar, except for a single page leaflet explaining there is a hearing on May 16, 2013 before the planning commission. The leaflet did not explain what was being proposed, nor did it provide any information other than noticing the neighbors of a proposed change in use that would be heard on May 16th. Today, no notice has been sent to any neighbor for the June 20, 2013 hearing.

BWS

Electronic Cc:

Chairman Richard Klitenick
Commissioner James Gilleran
Commissioner Lisa Tennyson
Commissioner Gregory Oropeza
Commissioner Timothy Root
Commissioner Michael Browning
Commissioner Sam Holland
Donald Craig
Owen Trepanier

Notwithstanding the lack of notice to neighboring property owners,¹ as the adjacent tenant, our offices share common walls with the proposed bar, and all that separates my office and, in fact, all of our attorney's offices is a thin sheet of drywall. Due to the thin walls, anything above normal conversations can be heard by the adjacent property. A 175 seat bar is not compatible with the adjacent office uses based simply on this issue.

Moreover, our ventilation system appears to be connected and it appears that the applicant has requested a bar, a typical place where smoking and other odors occurs which would make our space untenable.

The hours of operations are also of a concern. Our firm operates typically from 7:00 a.m. with attorney's working routinely to approximately 10:00 or 11:00 p.m. The proposed bar's hours of operation are 7:00 a.m. to 4:00 a.m. The proposed hours of operation would adversely affect the ability for our office to continue to operate as it has done in the past.

Finally, although there is limited parking for the building, each space is limited to two or three parking spaces. According to the Applicant's trip study, the amendment would increase the amount of trips per day by 78 trips per day, with only two or three parking spaces; this will adversely affect parking at our offices. Our office pays for additional parking across the street at Strunk Lumber Yard. It is inconceivable to believe that a 175 seat bar will not impact parking or traffic in the area, which impacts the Applicant has not addressed.

In the staff report regarding techniques to mitigate or abating smoke, odor noise, and other noxious impacts, Ms. Haller indicates that "the proposed use will not create negative impacts that require mitigation, therefore, no mitigative techniques are proposed." Respectfully, I, along with all attorneys and staff at our firm disagree with this assessment. I have met with Mr. Trepanier and voiced the foregoing concerns, but have not received any proposal to alleviate these concerns.

Therefore, based on the foregoing, I, on behalf of Smith Oropeza, P.L., strenuously object to the request to amend a major conditional use application proposed next door and request the Planning Commission vote against the proposed amendment.

I will be at the meeting to discuss our firm's concerns and answer any questions you may have.

Sincerely,



Barton W. Smith, Esq.

¹ Notice was likely sent to the owner of the building, Historic Tours of America, Inc., but pursuant to the good neighbor policy, it is the Applicant's responsibility to notify the neighboring property owners, which does not appear to have been accomplished for the June 20, 2013 meeting.