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Tuesday, February 17, 2015

By Electronic Transmission

Greg Guernsey, Director
Planning and Development Review Department
City of Austin
One Texas Center
505 Barton Springs Rd.
Austin, Texas

RE: *Non-Peak Hour Concrete Pours in Downtown Density Bonus Area*

Dear Mr. Guernsey:

Thank you for forming and participating in the consensus-building process regarding non-peak hour concrete pours. The two-hour session last Wednesday evening was very productive.

As owners of a residential unit at 360 Nueces Street since 2008, my wife and I are in residence usually one week a month and longer during holidays and the summer. When we bought our condo, we knew there would be more noise than in most neighborhoods. We did not expect so many nights of sleeplessness due to excessive noise from construction. We are pleased the City is taking a hard look at strengthening protections for those who invested in downtown Austin.

Here are my key takeaways from last week's meeting:

- There seemed to be strong support for all construction noise in the Downtown Density Bonus Area being regulated with objective standards, rather than addressing only the hours for concrete pours. Given the irritating sounds generated by pile driving and other construction activities, this is a wise and prudent move, and I hope staff will recommend it.
- While we did not focus on the specific noise standards that should be imposed, there was strong support for graduated noise standards based on time-of-day. A reasonable noise standard for 5 PM in the afternoon is not necessarily reasonable at 10 PM at night, and a reasonable standard at 10 PM at night is not necessarily reasonable at 2 AM.

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I like Houston's standard. As shown by Mr. Rich Szechy's research (available on the City's website), it requires "68db(A) between 8:01 p.m. and 6:59 a.m. on the nonresidential property on which the sound is generated." (e.a.) Austin should adopt such a reasonable standard.

- In the two entertainment districts—one is two blocks from my home—some of us would be willing to rely upon the existing limits on amplified music until 2 AM, however, industry representatives seemed unwilling to accept the otherwise applicable standard of "audible" noise after that. In my view, whether this approach to construction in entertainment districts can be accepted by the community will depend upon a stringent standard after 2 AM.
- There seemed to be broad acceptance of the idea that any permitted construction at night must be contingent upon a noise and light mitigation plan as a condition of permit issuance. Such a plan should be reasonably likely to meet noise standards and be enforceable. I believe downtown residents should receive notice of and be allowed to comment on a mitigation plan during review of applications for nearby downtown construction jobs.

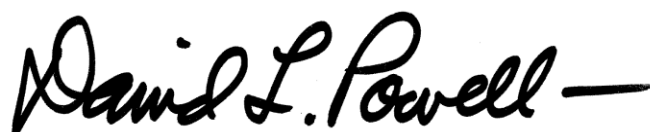
We did not have time to discuss the suggestion to "distinguish between unique pours (library) & other pours." As one who experiences these nighttime disturbances, I do not believe a reasonable distinction can be made based on the ownership or character of the structure (such as the new library or the proposed county courthouse at Republic Square). As industry representatives argued repeatedly at our meeting, "Noise is noise." I agree.

Lastly, I want to address back-up alarms. The attached paper, "Effective Noise Control During Night-time Construction" by the Federal Highway Administration (FHWA), addresses backup alarms on page 5. FHWA's recommendation for ambient-sensitive self-adjusting backup alarms and manually adjusted backup alarms is especially noteworthy, in light of the recurring complaints about the piercing *beep-beep-beep* sound that disturbs so many of us at night.

I appreciate the contractors' liability and safety concerns, but do not believe they are a legitimate excuse to disturb our sleep if there are mitigative measures that can minimize these irritating sounds. I encourage you to investigate the legal and practical issues regarding these recommended controls on backup alarms to see if they can be part of the City's response.

Thank you for your consideration. Please let me know if I can assist further.

Sincerely,

A handwritten signature in black ink that reads "David L. Powell" followed by a horizontal line.

David L. Powell

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Attachment

cc: Terry Arterburn
Viktor Auzenne
Downtown Commission