

# ARMBRUST & BROWN, PLLC

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May 24, 2019

## VIA ELECTRONIC MAIL

Ms. Denise Lucas, Interim Director  
Mr. Andrew Linseisen, Assistant Director  
City of Austin - Development Services Department  
505 Barton Springs Road, 5th Floor  
Austin, Texas 78704

Re: Plaza Saltillo Block E Texaco Site Plan Appeal for SPC-2018-0478A

Dear Ms. Lucas and Mr. Linseisen:

This firm represents and this letter is submitted on behalf of Endeavor Real Estate Group (the "Applicant"), in the above-referenced matter. Pursuant to Section 25-5-149 of the City of Austin Land Development Code ("LDC"), the property owner and Applicant hereby appeal the Land Use Commission's decision of the site plan application. This letter is being submitted as an attachment to the Site Plan Appeal form prescribed by the City of Austin's Development Services Department.

The following information is provided in compliance with Article 7, Division 1, of Chapter 25-1 of the LDC, for a Notice of Appeal.

1. The name, address, and telephone number of the appellant is:

Endeavor Real Estate Group, c/o Jason Thumlert, 500 W. 5<sup>th</sup>  
Street, Suite 700, Austin, Texas 78701.

2. The name, address, and telephone number of the agent for the appellant is:

Armbrust & Brown, PLLC, c/o Richard T. Suttle, Jr., 100  
Congress Avenue, Suite 1300, Austin, Texas 78701, ph. (512)  
435-2310.

3. The decision being appealed is described as follows:

The Land Use Commission's decision to deny the conditional use site plan to allow a cocktail lounge with a late hours permit as a permitted use under the property's current TOD-NP and TOD-H-NP zoning designation. The Applicant requested site plan approval as recommended by City staff.

4. The date of the decision was May 14, 2019.
5. The applicant is the agent for the property owner and Applicant and therefore an interested party.
6. The reasons the Applicant believes the decision does not comply with the requirements of this title and the basis for this appeal are as follows:

Pursuant to LDC Section 25-5-145(A): The Land Use Commission shall determine whether the proposed development or use of a conditional use site plan complies with the requirements of this section. In the backup provided to the Land Use Commission, City staff outlined how the conditional use site plan complied with each of the evaluation criteria referenced in LDC Section 25-2-145:

LDC Section 25-5-145(B): 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 are 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;

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

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

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

LDC Section 25-5-145(C) A conditional use site plan may not:

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

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

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

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.

3. 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.

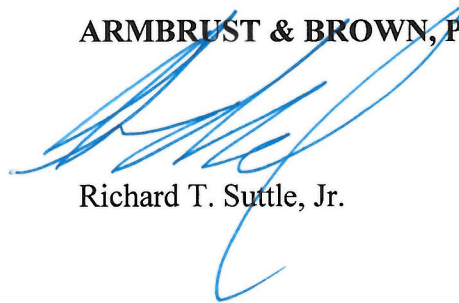
The action taken by Planning Commission on May 14, 2019 to deny the conditional use site plan was not based on whether the conditional use site plan satisfied the above criteria. Planning Commission's determination failed to provide any reasoning or findings contrary to City staff's evaluation of the conditional use site plan.

Upon receipt of this letter and pursuant to Section 25-1-188 on behalf of the Applicant, we hereby request a public hearing to be scheduled before the City Council at the first available hearing that notification can be given.

This letter is intended to supplement and become a part of the Site Plan Appeal Form filed with the City by the Applicant. Thank you for your attention to this matter and please do not hesitate to contact me if you need further information regarding this appeal.

Very truly yours,

**ARMBRUST & BROWN, PLLC**

A handwritten signature in blue ink, appearing to read 'R. Suttle, Jr.', is written over the company name.

Richard T. Suttle, Jr.

cc: Anaiah Johnson  
Jason Thumlert  
Amanda Surman