

Yale University

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July 21, 2009

Ms. Karyn Gilvarg
Executive Director
City of New Haven Plan Department
165 Church Street
New Haven, CT 06510

Dear Ms. Gilvarg:

It has come to our attention that EWP Realty, LLC, Owner, and S.K.M Restaurants, Inc. d/b/a Toad's Place, Tenant, have applied to the Zoning Board of Appeals for a special exception to the zoning ordinance in order to create an open-air smoking area on the third floor (currently the roof) of their premises at 294-300 York Street without adding additional parking; and that the ZBA has referred the application to the City Plan Commission for review (File # 09-71-S).

We at University Properties, which operates Yale's commercial real estate, have serious concerns regarding this special exception for two reasons involving public health policy and public safety:

- National, Connecticut, New Haven and Yale University health policies are all aimed at discouraging smoking, not encouraging it, due to its proven deleterious health effects. Reflecting University policy, University Properties includes in all its leases a prohibition on smoking on Yale-owned leased premises, as well as a prohibition of the sale of smoking paraphernalia and tobacco products. Currently Toad's patrons must leave their drinks and exit the premises to smoke, which at least makes it inconvenient. Creating a smoking area inside Toad's where patrons can carry their alcoholic beverages and smoke at the same time is clearly intended to facilitate smoking, not discourage it. Granting this variance would have the effect of directly contravening public health policy.
- As the owner of several contiguous properties, University Properties has serious concerns about the safety of creating a smoking area on the roof of 294 – 300 York – or indeed on the roof of any building. It would take no effort at all to flick a cigarette butt over the fence the applicant proposes to erect on the roof, regardless of the proposed 72" height of the mesh fence. A cigarette butt so launched would land either (1) on the roof of the 290-292 York, (2) in the cardboard-containing trash bins located in the alleyway and in the area behind 290-292 York known as "the Fishtank" which belongs to Yale, (3) on the heads of pedestrians in the Yale walkway that runs between Toad's and Mory's or on the York Street sidewalk or (4) on the back roof of Toad's itself.

Sincerely,



cc: Thomas Talbot, Deputy Director of Zoning
Gil Hawkins, Jr., Planning Information
Joy Ford, City Plan Commission