

**ITEM NO. 7 RM12D-UC TO CS-UC; .27 ACRE; 804 PENNSYLVANIA ST (MKM)**

**Z-13-00287:** Consider a request to rezone approximately .27 acre from RM12D-UC (Multi-Dwelling Residential with Urban Conservation Overlay) District to CS-UC (Commercial Strip with Urban Conservation Overlay) District, located at 804 Pennsylvania St. Submitted by Bartlett & West, Inc., for Ohio Mortgage Investors LLC, property owner of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Mr. Darron Ammann, Bartlett & West, felt this was a great project for the area.

Mr. Tony Krsnich said he came up with the term bistro to soften the word bar. He said it would be similar to a coffee hangout with local pre-made food, iced tea, beer, and cocktails. He said some of the concerns received were about it turning into another fraternity bar like The Wheel. He said the general manager of the Warehouse Arts District put a petition together of people who were in favor of the project. He said adjacent property owners were in support of the project. He said there was 97% support from the Poehler residents that they talked to. He said he has heard from many of the people who live and/or work in the area that they want a place to go. He said he did not think he would be able to achieve the 55% of gross sales from food during the first year and that it would probably take closer to two years to achieve that. He said Option 2 in the staff report was closer to what he intended to do but that he never planned to have a big loud outdoor venue. He said he disagreed with the outdoor seating limitation with Option 2 and hoped there could be more outdoor seating without amplified music. He said he had no intention to be open until 2:00am. He said instead of fighting with the East Lawrence Neighborhood Association, who has supported him in the past, he would prefer to attempt to try and make the 55% non-alcoholic revenue. He said at this point it will be a long shot and he was not doing this from a revenue generating standpoint but it was one of the pieces to further the progress in protecting the investment in the Warehouse Arts District. He said in the event that he would come up short at the end of the two year period he would like to take a look at doing something closer to Option 2 in the future, if possible.

**PUBLIC HEARING**

Ms. KT Walsh, East Lawrence Neighborhood Association, said Mr. Krsnich was amazing with historic preservation and this was the first serious hitch they had run in to. She said they were in favor of Option 1, the 55% food sales rule. She said their reasoning for that was because it was a residential area and they had fought for years not to become an expansion of downtown. She said they told Mr. Krsnich at a meeting that they were pro-bar and would like an establishment to eat and drink at. She said she frequently sees the Allen Press employees walking downtown to eat and drink. She said the neighborhood association was in support of the project but that they would like to see the 55% food sales rule stuck to.

Commissioner Jossierand asked if Mr. Krsnich meet with Poehler residents as a group.

Ms. Leslie Soden, resident of the Poehler building, said no.

Mr. Krsnich said the building manager was in charge of meeting with the Poehler residents.

Mr. Michael Almon said he attended the September 9<sup>th</sup> East Lawrence Neighborhood Association meeting and he agreed that the area was in support of a restaurant opportunity and option for alcohol. He said one thing that came up at the meeting was that Mr. Krsnich wanted to meet the concerns of the neighborhood. He said Mr. Krsnich has shown good faith by offering the condition of meeting the requirement for 55% food sales or offering to condition the deed. He felt Planning Commission should consider conditional zoning.

Mr. John Gasgone, 941 Pennsylvania, said he lived a block from this property and he saw the potential for the neighborhood to grow into a mixed use urban area. He said a project like this was exactly what he was looking for in his neighborhood. He said he supported Option 1. He said having any restrictions on a business like this made an already challenging business more difficult and this was risky on Mr. Krsnich's behalf. He said he did not see an issue with noise or other things associated with this type of establishment.

### **APPLICANT CLOSING COMMENT**

Mr. Krsnich said if he takes this chance he believed it would take 2 years. He said if at the end of those 2 years and he comes up short he would like to refer back to Option 2 that he chose to pass on even though it's 100% what he wants to do.

### **COMMISSION DISCUSSION**

Commissioner Culver asked staff if they could do a 2 year window and then revisit the issue if needed in the future.

Mr. McCullough said typically with the food sales requirement downtown a business gets a year to prove themselves and then submit the gross receipts. He said if they don't meet it during that first year staff will try and work with them to try and comply with the regulation. He said Mr. Krsnich was asking to be able to do that within 2 years instead of 1 year.

Mr. Randy Larkin, staff attorney, said this would be a condition for the property instead of a requirement and that a 2 year recommendation could be made to the City Commission.

Mr. Krsnich said one of the reasons he believed this could be a variation from Massachusetts Street was because of the zoning and restriction that was done voluntarily by the previous developer.

Commissioner Josserand suggested deferring the item to allow Mr. Krsnich time to meet with the Poehler building residents.

Mr. Krsnich said he personally spoke with 15 residents and preferred a more personal approach by reaching out to them individually. He said the building manager met with approximately 52 residents as well. He said there was nobody that cared about his tenants and that area than him. He said they were going to hold a group meeting last week but it got rained out. He said if he did not have the support of the residents/employees of the area he would not be proposing the project.

Commissioner Rasmussen said it did not concern him that there was no group meeting and felt meeting one on one with the tenants was more effective.

Commissioner Liese agreed with Commissioner Rasmussen and felt Mr. Krsnich did his homework in knowing whether he would get the support he needed in the community.

### **ACTION TAKEN**

Motioned by Commissioner Liese, seconded by Commissioner Rasmussen, to approve the rezoning request for approximately 0.27 acre from RM12D-UC to CS-UC with the restrictions of uses established by Ordinance 8054, with the condition requiring that 55% of the total sales receipts be from food sales be revised to allow a 2 year time-frame for compliance.

Commissioner Britton said he would support Option 1 or Option 2 because they both get to the end result.

Ms. Walsh said the difference between having a big group meeting is that a group provides empowerment to individuals who might feel intimidated by their landlord approaching them individually.

Commissioner Liese agreed with Ms. Walsh. He said the applicant would pay a dear price if he hasn't reached out to the tenants.

Ms. Soden said the two options were new and not part of their meeting.

Commissioner Culver suggested the neighbors voice their opinion to the City Commission.

Mr. Krsnich said he was agreeing with the recommendation of the East Lawrence Neighborhood Association option.

Motion carried 9-1, with Commissioner Josserand voting in opposition.

Mr. Krsnich said Ms. Walsh asked what would happen at end of the 2 year period.

Mr. McCullough said it would be enforced how 1 year grace periods are enforced. He said it would not automatically fall back to Option 2. He said there would be a process of the applicant having avenues to comply with the condition. He said one of those options could be going through the zoning process to amend the conditions.