

ITEM NO. 4 CS-UC TO CS-UC; 0.27 ACRES; 804 PENNSYLVANIA ST (MKM)

Z-15-00022: Consider a request to rezone approximately 0.27 acres from CS-UC (Commercial Strip with Urban Conservation Overlay) District to CS-UC (Commercial Strip with Urban Conservation Overlay) District with modification to the zoning restriction to permit a bar use without a food sales requirement, located at 804 Pennsylvania St. Submitted by Flint Hills Holdings on behalf of Ohio Mortgage Investors LLC, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Tom Larkin, Flint Hills Holdings, said he reached out to local businesses, homeowners, and tenants to see if they had any issues or comments. He said he included design changes after those meetings, such as the alley entry and increased buffer between the parking lot and Poehler Lofts. He said he also reduced the outdoor seating capacity to about 15% of the neighboring Cider Gallery. He said there was a catering license at Cider Gallery where there were often 250-300 people in the outside courtyard. He said alcohol was often served and there had not been one complaint in the two years it had been in operation. He said there would be roughly 30-35 people, at its busiest time, outside the bistro area. He said a common misconception was that the business model for this development would change. He said the operation would still include non-alcoholic sales such as food, baked goods, sandwiches and non-alcoholic beverages. He stated one of the biggest issues was the personal investment for the potential owners to have to track down sales and receipts from other business owners, mainly mobile food vendors. He said the presence of mobile food vendors would be a benefit to fix the problem of such a small building footprint. He said the building was historic and could not have extra square footage added on to accommodate a kitchen.

PUBLIC HEARING

Mr. Stephen Johnson said he was an artist and lived in a loft on E 9th Street. He spoke in support of the rezoning and felt it would be a good addition to the area.

Mr. Kyle Johnson said she was a business owner and tenant in the Cider Gallery. He spoke in support of the rezoning.

Ms. Janet Good said she was the East Lawrence Neighborhood Association president when the conditional zoning was originally placed on the property. She asked for holistic planning. She said at the time of the conditional zoning they had concerns about big development coming in. She expressed concern about being bookended with two entertainment districts. She said there was already too much traffic and parking issues due to downtown. She said this plan was a cool idea but the 9th Street Art Corridor was already in the works. She wanted them to think about the long term effect of turning the area into an entertainment district. She said there was already an impact from this entertainment zone. She felt licensing for bars should be kept to a minimum.

COMMISSION DISCUSSION

Commissioner Josserand said in comparing the hearing tonight to what they heard previously he was bothered that there were no representatives from the East Lawrence Neighborhood Association.

Commissioner von Achen asked the applicant about the non-alcoholic sales.

Mr. Larkin said most would come from mobile food vendors. He said there would also be baked items and sandwiches from other businesses in town that they will partner with.

Commissioner von Achen asked Mr. Larkin if food would not be prepared onsite.

Mr. Larkin said that was correct.

Mr. McCullough said the issue was that vendors had difficulty investing in the project and not being able to prove compliance with the 55% rule due to gathering multiple receipts from multiple food vendors throughout the year.

Commissioner Josserand said when they previously considered this they were looking at the alternative of sales with food or a bar with early closing hours.

Mr. McCullough said with operational conditions such as early operation hours, no amplified music, etc.

Commissioner Josserand asked if the staff recommendation was similar. He asked if the Special Use Permit would implement the early closing hours.

Mr. McCullough said the staff recommendation was essentially the same except that instead of building operational conditions to zoning staff thought it was more appropriate to create conditions through the Special Use Permit process. He said the Special Use Permit was the tool to look at operational standards for the use to minimize potential negative impacts on the neighborhood.

Commissioner Culver asked if the Special Use Permit would come back to Planning Commission if it went that route.

Mr. McCullough said yes. He said if the request was approved with the condition that a bar was only permitted with a Special Use Permit the applicant would have to make a new application for a Special Use Permit for the bar use.

Commissioner Britton said he would not be comfortable with rezoning and allowing the straight up bar use. He liked the Special Use Permit option and did not see a problem with that. He said the area was a cool area and could benefit from mixed-use.

ACTION TAKEN

Motioned by Commissioner Britton, seconded by Commissioner Culver, to approve the rezoning request, Z-15-00022, for 804 Pennsylvania, with a condition that a *Bar* use without the food sales requirement be permitted only with a Special Use Permit.

Motion carried 6-2, with Commissioners Denney and Josserand voting in opposition.