

## UPR-5-7-94: 805 OHIO, ADAPTIVE REUSE PROPOSED FINDINGS OF FACT & CONDITIONS OF APPROVAL

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Revised FINDINGS OF FACT to support approval of the Use Permitted upon Review:

Recommend condition **IV. EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES** be revised as shown:

- I. **ZONING AND USE OF PROPERTY NEARBY:** The property in this request and the nearby lots are residentially developed either with single-family or 2 family dwellings.
- II. **CHARACTER OF THE NEIGHBORHOOD:** The neighborhood character is primarily single-family residential. The character of the neighborhood becomes more transitional, including duplex uses; single-family home conversions to 2+ units, and non-residential uses toward the end of the 800 block of Ohio Street.
- III. **SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED:** The current zoning designation is unchanged by the proposed Use Permitted upon Review request however the zoning restrictions as to density of development will be waived by the approval of this application for adaptive reuse.
- IV. **EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES:** The approval of the proposed Use Permitted upon Review will grant ~~an~~ *a temporary* increase *in* residential density on this site which *could potentially* ~~may~~ have a detrimental impact on adjoining single-family residentially developed properties.  
*To mitigate this potential for negative impact, the precedence has been narrowly drawn by the City Commission through the establishment of rigid, site specific standards which must be met and maintained through the life of the adaptive reuse as a multiple-family structure.*
- V. **LENGTH OF TIME THE SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED:** The property is not currently vacant. The house on the site is a 110 year old historic home which is a contributing property within the Old West Lawrence Historic District.
- VI. **RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS:** The relative gain is through the potential preservation of an historic property which makes a significant contribution to the State & National Historic District of which it is a part. The presence of this Historic District contributes significantly to the history of the early Lawrence community. The hardship upon the property owner would be through the denial of an income source needed to finance the substantial interior & exterior modifications/rehabilitation necessary to conserve this property.

- VII. **CONFORMANCE WITH THE COMPREHENSIVE PLAN:** The comprehensive plan does not directly address the issuance of a special use permit (UPR) for the adaptive reuse of historic register properties. The Comprehensive Plan does address the need to preserve, maintain and enhance existing housing stock.

**PROPOSED CONDITIONS FOR APPROVAL:**

Conditions \_\_ through \_\_ shall be met prior to release of the Use Permitted upon Review site plan to the building inspections department for issuance of a building permit. Compliance with all conditions shall be maintained throughout the life of the Use Permit for adaptive reuse. Failure to comply shall be reason for immediate review and revocation of the Use Permit for adaptive reuse of 805 Ohio as a multiple-family structure.

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1. **Definitions:** For purposes of this UPR the following definitions shall apply:

**Applicants:** Daniel T. and Sherri E. Riedemann & Kenneth & Frances Riedemann.

**City:** City of Lawrence

**Date of first lessee occupancy:** The date when the property is first used for multi-family use, which shall be interpreted as the date when any part of the second floor of the property is used for habitable space by a party other than the applicants.

**Dwelling Unit:** One room, or a suite of two or more rooms, designed for or used by one family or housekeeping unit for living and sleeping purposes and having only one kitchen or kitchenette.

**Lessee:** A natural person leasing a dwelling unit on the second floor of the property from the applicants.

**Multi-Family Use:** The use of the property as a dwelling unit by individuals other than the applicants.

**Property:** legal description: Lots 89 & 91 on Ohio Street, Original Townsite of Lawrence, Douglas County, Kansas; also known as 805 Ohio

**Occupant:** Person using the property as his or her domicile and official place of residence.

**UPR:** Use Permitted upon Review

2. Owner-occupancy: The property shall be owner-occupied by the applicants prior to issuance of a building permit for construction of multiple-family units on the second living level. The house shall be owner-occupied by the applicants during the effectiveness of the UPR.
3. Code requirements: Prior to occupancy as a multiple-family structure, all fire & building life safety codes shall be met and, if applicable, ADA accessibility guidelines & requirements.
4. Multiple-family usage: The multi-family use of the property shall be restricted to the following conditions:
  - a. Only the second floor of the property shall be used as dwelling units by individuals (lessees) other than the applicants; and
  - b. The second floor of the property shall contain a maximum of four (4) dwelling units; and
  - c. Based on the limited square footage, historic character and conditional multi-family use of the property in a zoning district zoned single-family residential, there shall be a limit of four (4) lessees occupying the second floor of the property. There shall be a limit of one (1) lessee per dwelling unit. Only lessees of the applicants shall occupy the second floor dwelling units. Pursuant to applicable federal, state and local law protecting familial status, the dwelling units may include one or more individuals who have not attained the age of 18 years, who occupies the dwelling unit with the lessee, provided the lessee is the parent or other person having legal custody of such person or persons who has not attained the age of 18 years.
  - d. The applicants shall certify in writing to the City the date of the first lessee occupancy. Such certification shall be made no less than ten (10) days after said lessee occupancy occurs.
  - e. The multi-family use shall terminate no later than ten (10) years after the date of first lessee occupancy. After the termination of multi-family use, the property shall be used only as a single-family residence.
5. Third floor usage: The third level of the house shall not be occupied or used as living space during the period of multiple-family occupancy. In addition, the owner shall seek a variance from the fire safety code requirements that the structure be sprinkled because it is a 3-story multiple-dwelling structure. The intent is to preserve & minimally alter the single-family character & status of this house.
6. Landmark listing: The owner shall, prior to occupancy as a multiple-family structure, submit completed applications for individual listing as a Landmark structure on the Lawrence and State Historic Registers;

7. Restrictive Covenants: The owner shall file a Restrictive Covenant with the Register of Deeds on the title to this property which shall restrict the use of the property pursuant to these UPR conditions. The restrictive covenant shall inure to the benefit of the City and the City shall have the authority to enforce the restrictive covenant by all lawful means. The restrictive covenant shall be approved in form and content prior to filing by City staff. The restrictive covenant shall not abrogate or reduce the ability of the City to enforce this UPR through other lawful means.
  
8. Administrative Review: The UPR shall be governed by the following provisions:
  - a. the provision for an annual administrative review by city staff of the physical structure, both interior & exterior. The first annual review shall occur 18 months after issuance of a building permit for 805 Ohio, and thereafter, annual reviews shall occur on the anniversary of the issuance of the building permit;
  - b. the provision for an annual review of the following documentation related to the adaptive reuse: copies of leases showing the number of units leased and the total number of renters/occupants; proof of residence by the owners [Daniel & Sherri Riedemann] at 805 Ohio. This proof shall include: a copy of driver's license; car registration; voter registration; and the previous year's income tax form;
  - c. restricting multiple-family usage at 805 Ohio to the second floor of the principal structure on the site. Said multiple-family usage shall be phased out based upon the following milestones schedule:
    1. a maximum of 3 individuals after the exterior work as described under item # -- has been completed;
    2. a maximum of 2 individuals after the ballroom renovations on the third floor and the following interior renovation works has been completed;
    3. removal of remaining multiple-family living units on the second living level shall occur within 6 months of the property owners having completed 90% of the renovation work as outlined under item # --;
  - d. a certified progress report shall be filed with the planning office one month prior to the annual review & inspection;
  - e. all work, interior & exterior, which requires a permit from the City of Lawrence shall first be reviewed and found to meet the Secretary of Interior Standards for Rehabilitation.
  
9. Adaptive use tied to ownership: This UPR is granted solely to, and creates property rights only to, the applicants: Daniel T. and Sherri E. Riedemann. The property shall be occupied by the applicants for the life of the UPR. The applicants shall file an affidavit at the time the UPR is granted indicating their sole ownership in the property. The transfer or assignment of ownership, or any part or interest thereof,

in the property, shall render the UPR null and void unless approval of the City is obtained prior to transfer or assignment.

Any rights created by this UPR may not be assigned or transferred without the permission of the City.

10. Complete site plan. Prior to the issuance of a building permit the applicants shall submit a site plan for administrative review indicating landscaping, repair of the brick sidewalk on the east and northern portions of the property, renovation of the garage, parking plans, and other appropriate items. The site plan shall be approved by City staff prior to the issuance of a building permit. Failure to comply with the provisions of the site plan, including maintenance and landscaping requirements, shall be grounds for the revocation of the UPR.
11. Revocation: The City, upon due notice and hearing, shall have the authority to revoke the UPR upon a finding or findings that the terms and conditions of the UPR have been violated. Upon the revocation of the UPR, the multi-family use shall immediately cease. The applicants shall ensure that all leases and agreements for the multi-family use of the property shall include a copy of the UPR conditions, and the lease shall specifically state that the tenancy is subject to the UPR conditions.
12. Termination of the Adaptive Reuse: Nothing in this UPR shall be interpreted as granting the applicants or any other person any right in maintaining a multi-family use at the property beyond a date ten (10) years after the date of first lessee occupancy.

# ATTACHMENT B

## REVISED CONDITIONS SET BY CITY COMMISSION AFTER REINSTATEMENT OF UPR

cc 2/16/99  
UPR-5-9-95

Mike Wildgen, City Manager, presented the staff report on the reinstatement of the Use Permitted Upon Review for 805 Ohio. All items were completed except for the certification of the fire alarm system. Staff recommended approval of the amendments to the UPR that was initially granted in 1994 along with the recommendation the applicant submit an annual report each year with inspection of the property by staff.

Moody asked the applicant if he concurred with the proposed timetable for implementation of the UPR.

Kenneth Riedemann, the applicant, said he agreed with the proposed timetable as presented by staff. Riedemann said the timetable was developed by him.

**Moved by Hodges, seconded by Nalbandian,** to approve the UPR for 805 Ohio subject to the amended Conditions:

### Condition 2

- a. Owner occupancy; the property should be occupied by the owner's or member of the immediate family during the effectiveness of the UPR; and,

### Condition 4

- a. The structure shall contain a maximum of five (5) dwelling units including the owners residents which comprises 2,600 sq. ft. on the first and second floors;
- b. One (1) additional unit shall be permitted on the first floor and not more than three (3) units on the second floor; and,
- c. There should be a limit of one lessee per dwelling unit. Only lessees of the owner shall occupy any portion of the structure except the owner's residence. Notwithstanding the previous paragraph, persons who have not attained the age of eighteen (18) years may occupy a dwelling unit with a lessee provided the lessee was a parent or other person having legal

custody of such person or persons who have not attained the age of eighteen (18) years. In addition, the applicant will submit annual progress reports the Friday of the first full week of January for each year until the UPR expires beginning in the year 2000 and ending in the year 2005; staff inspection of the property will take place the Friday of the second full week of January for each year until the UPR expires in the year 2005. Motion carried unanimously. (16)

Pat Talbott, 7830 State Line Road, asked how the property owners were notified of the proposed benefit district for parking improvements downtown. He owned several properties downtown and was not notified other than by his tenant.

George Williams, Public Works Director, said he used information provided by the Utility Department for the mailing notice of the public hearing. Future notices would be sent to owners of record which would be given to the City by the County. Williams thought the Utility Information was good and easy information for this hearing because it would either had been sent to the owner or the tenant.

**Moved by Moody, seconded by Augustine,** to adjourn at 7:40 p.m. Motion carried unanimously.

**APPROVED:**

\_\_\_\_\_  
Martin A. Kennedy, Mayor

**ATTEST:**

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Raymond J. Hummert, City Clerk

**ATTACHMENT C**

STAFF REPORT PRESENTED TO HRC

HRC Packet Information 06-15-06  
Item No. 4: DR-05-49-06 p.1

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**LAWRENCE HISTORIC RESOURCES COMMISSION**  
**ITEM NO. 4: DR-05-49-06**  
**STAFF REPORT**

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**A. SUMMARY**

**DR-05-49-06:** 805 Ohio Street; Use Permitted Upon Review-Apartments; Certified Local Government Review. The property is located in the Old West Lawrence Historic District, National Register of Historic Places. Submitted by Daniel Riedemann for Kenneth & Frances Riedemann, the property owners of record.

**B. PROJECT DESCRIPTION**

The applicant is requesting a Use Permitted Upon Review to allow for an owner occupied unit and three apartment units in an RS-2 district for the structure located at 805 Ohio Street. The property is a contributing structure to the Old West Lawrence Historic District.





**ITEM NO. 4: DR-05-49-06** 805 Ohio Street; Use Permitted Upon Review; Apartments; Certified Local Government Review. The property is located in the Old West Lawrence Historic District, National Register of Historic Places. Submitted by Daniel Riedemann for Kenneth & Frances Riedemann, the property owners of record.

**STAFF PRESENTATION**

Staff showed pictures of the front and northern elevations.

**APPLICANT PRESENTATION**

Dan Riedemann, resident of the subject property, spoke on behalf of the property owners. Mr. Riedemann outlined the applicants' wish to continue the existing use of the property as a multi-family dwelling. He described the UPR that had been in place for 12 years, which was based on the original intent of using apartment rental fees to fund repair and renovation of the structure. The conditions of the original UPR included a series of milestones to ensure the renovations occurred in a timely manner, with the ultimate intent of phasing out the apartments and returning the structure to its historic single-family residential use.

Mr. Riedemann said the milestones were nearly complete, but the property owners were now more aware of what it would take (financially) to maintain the structure. They now felt it was unrealistic to expect a single-family use to be successful in such a large home and were pursuing another UPR to allow the continued use of the building as a multi-family dwelling.

It was verified with staff that all the milestones had been addressed (completed, in progress or removed). Ms. Zollner clarified that the proposal was not a continuation of the existing UPR. This request was for an entirely new, stand-alone UPR.

Mr. Riedemann said it would have been impossible to complete the renovations using only apartment rental fees; this source of income had covered only about half of the property owners' current investment in the property. He said that Price Banks, who was just leaving the post of Planning Director when the property was purchased in 1994, said there were no statutes at that time to deal with this "white elephant" property and the city's UPR regulations were developed as a result of this original proposal.

Mr. Riedemann said the structure retained "every bit of its historic integrity." He conveyed the applicants' eagerness to apply for a listing on the Lawrence Register of Historic Places. He also suggested that the main entry might become listed as a National Historic Place.

Commissioner Meyer expressed concern that so much effort had been made to create the apartment units, when the final intent was supposedly to return the building to a single-family use. Mr. Riedemann described a number of unforeseen circumstances that had forced the applicants to make renovations that were not originally anticipated (Ex. basement flooding resulted in a division of utilities).

It was noted that the uses surrounding the subject property (a mix of multi-family and civic uses) made it unlikely that a buyer who could afford to maintain the house as a single-family residence would actually choose to locate there.

Mr. Riedemann said the third floor remodel was no longer proposed because it would require installing a sprinkler system throughout the entire house.

#### **PUBLIC COMMENT**

No member of the public spoke on this item.

#### **COMMISSION DISCUSSION**

Commissioner Marvin pointed out that the only external element the proposed new UPR would modify was the parking area. She asked why the Commission was looking at a project that would typically require only an administrative review. Ms. Zollner explained that State Law requires the review of special use permits and adaptive reuse requires HRC Approval.

Commissioner Meyer said it seemed the proposal was more akin to a rezoning. She said the property owners must have had some idea what renovation would entail, and she questioned whether the applicants had been sincere in their stated "original intent."

It was discussed that the UPR process allowed for public comment and the application of conditions, including a cyclical review that would ensure continual maintenance of the structure. This was not so with a standard single-family use. It was also noted that a UPR may be revoked at any time if violations of the UPR's conditions are found by the City Commission.

Commissioner Hickam said adaptive re-use was a viable option for many structures of this size as property owners "got real" about how much it cost to maintain the structure.

It was established that a UPR may be tied to the property or the owner.

The majority of the Commission expressed general support for the proposal as a way to keep the structure maintained properly, but stated their concern that appropriate conditions be applied.

There was discussion about interior renovations included in the application. Although these were not technically within the review of the Commission, there was some concern that these interior changes would extend to the creation of even more apartment units.

#### **ACTION TAKEN**

Motioned by Alstrom to approve the proposal per staff's recommendation.

Motion withdrawn to allow additional discussion.

### **COMMISSION DISCUSSION**

It was clarified that the applicants had no intent at this time to renovate the third floor space because this would require sprinkler installation throughout the house that would in turn require removal of existing historic material.

Mr. Riedemann said the applicants had no objection to conditioning an annual review of the structure, and that there was no intent to create more apartment units than currently shown on the submitted drawings.

Mr. Riedemann said the State Historic Preservation Office (SHPO) had congratulated the property owners on their preservation efforts, noting that all internal changes had been done in a manner that would allow an easy return to a single-family use if that were ever financially possible.

### **ACTION TAKEN**

Motioned by Alstrom, seconded by Hickam to approve the Certified Local Government Review for the project at 805 Ohio Street, based on a determination that the project will not encroach upon, damage or destroy any listed property or its environs. Approval was subject to the following revised conditions:

1. Any changes to the approved project will be submitted to the Historic Resources Commission prior to the commencement of any related work;
2. The applicant completes the Lawrence Register nomination for the property;
3. The structure shall be open to staff on an annual basis to ensure the structure is being maintained according to the Secretary of the Interiors' Standards; and
4. The UPR shall be valid for 10 years at which time the applicant will return to the HRC for renewal of the UPR.

Motion carried unanimously, 7-0.