

21 September 2006

To: City Planning Commission

We, the undersigned, support the approval of conditional zoning for the operation of a quality restaurant and catering business on the property of Robert and Molly Krause at 917 Delaware. We believe their presence is an asset to the city of Lawrence and to our neighborhood, and is consistent with the diverse business and artistic character of East Lawrence. We are flattered they have chosen our neighborhood as a place to practice their craft. They have consistently shown themselves to be good neighbors and they display pride in the ownership of their East Lawrence home.

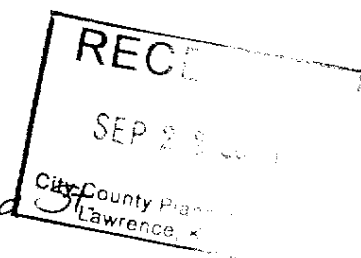
The East Lawrence Neighborhood Association, of which we are all members, has held two votes on this matter, both of which passed by overwhelming majority in favor of supporting the rezoning. ELNA has indicated in communication to us their agreement with the conditional zoning measures as presented by the Krause's and their attorney.

However, the ELNA Board has at times inserted language in past recommendations and communication to the neighborhood that was not discussed in public meetings and went against the wishes of the majority.

For this reason, the purpose of this letter is to ensure the correct message of support and approval from Krause neighbors is delivered to the Planning Commission, and that the East Lawrence Neighborhood Association, by their vote on 11 September 2006, has indicated their support of the Krause's rezoning request by an overwhelming majority.

Respectfully,

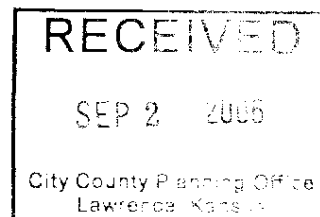
|                          |                       |
|--------------------------|-----------------------|
| <i>Deborah A. White</i>  | 941 Pennsylvania St.  |
| <i>Ashley E. Winters</i> | 941 Pennsylvania St.  |
| <i>Deeth Dickerson</i>   | 1100 New Jersey       |
| <i>Annie Dickerson</i>   | 1100 New Jersey       |
| <i>Debra Johanning</i>   | 1313 Connecticut      |
| <i>Bob Hill</i>          | 730 New Hampshire #34 |
| <i>Irene Izquierdo</i>   | 808 Connecticut St.   |
| <i>Shannon S. Hayes</i>  | 808 Connecticut St.   |



David Johanning 1313 Connecticut

September 15, 2006

Lawrence Douglas County Metropolitan Planning Commission  
6<sup>th</sup> & Massachusetts Street  
Lawrence, Kansas 66044



Dear Commissioners:

This is a letter of support for the rezoning of the property at 917 Delaware Street.

We are property owners and/or residences of several properties on the 900 block of Pennsylvania Street.

We believe the business Mr. & Mrs. Krause would like to operate would be an asset to the neighborhood. In fact it would help improve the area. The Eastside Tavern at the corner of 9<sup>th</sup> and Pennsylvania has often been loud and its clients have disturbed us in the past. Underage drinkers and the front deck are the two complaints we have about the tavern. The Krause's clients would be responsible adults and their property and buildings are of a nice design.

We have questions. What would happen should the property be sold? Would it continue to be zoned for private dining or return to family dwelling? Would Eastside Tavern be able to continue to be in its location? There has been some discussion about the Krause's business not serving the neighborhood (there are area residents who do dine there). We believe the tavern has customers not from the neighborhood. What is the difference? Both are on the edge of the neighborhood and both could have their businesses.

A comment on the Krause's neighbor to their south, He is a difficult person to have a discussion with when one opposes his view. Judy Romero: When I have expressed my opinion, he has interrupted in a loud voice.

Thanks you for this opportunity to address the commissioners about this matter.

Respectfully,

Ramon & Virginia Romero  
Property owners

*Virginia Romero*  
Ramon Romero

Judy Romero  
929 Pennsylvania

Mike Romero  
916 Pennsylvania

# League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

September 24, 2006

Holly Krebs, Chairman  
Members  
Lawrence-Douglas County Planning Commission  
City Hall  
Lawrence, Kansas 66044

RE: ITEM 12: RS7 TO CN1; 0.134 ACRES; 917 DELAWARE

Dear Chairman Krebs and Planning Commissioners:

The issue of rezoning the Delaware Street to the CN1 District is of particular concern to the League for the following reasons.

1. This is spot zoning. This application for rezoning challenges one of the basic precepts of conventional zoning in general and of our new code in particular to avoid giving special privileges to single individuals, privileges that are not available to the citizens as a whole. This is why "spot" zoning is considered undesirable, if not illegal, and may lead to further unplanned rezoning. Very significant is the fact that the requested CN1 District has no supporting neighborhood plan for this use, required for the CN1 District by *Horizon 2020*.

2. Questionable methods of restricting permitted uses are proposed. The owners of the property have presented a "Resolution" that apparently restricts the permitted uses that can be available to the property for both business and residential uses to fewer than those permitted in the CN1 District. This is legally questionable. The staff is interpreting this as feasible based on **Article 20-1303(f)(1)** that allows the City Commission to accept restrictions on the zoning application not specifically allowed in the Code. This section of the Code reads as follows:

**"20-1303(f) Review and Decision-Making Criteria**

In reviewing and making decisions on proposed zoning text amendments, review bodies shall consider at least the following factors:

**(1)** whether the proposed text amendment corrects an error or inconsistency in the Development Code or meets the challenge of a changing condition; and..."

Rather than as a map amendment, the Staff interpretation apparently suggests adopting the Application with its suggested restrictions as a text amendment. This would require a Code change, presumably for a new district, and which would make it available to everyone else under like conditions. Unlike the requested map amendment, a text amendment would be legal, but would also establish a precedent for handling future similar situations.

3. The application includes unsanctioned restrictions on the use. Without a Code change, some of the conditions that are proposed to be applied to the operation of the restaurant in the "Resolution" are not conditions that the CN1 Zoning District or the Code have been written to restrict, and therefore are unenforceable; for example, placing restrictions on the days and hours of operation.

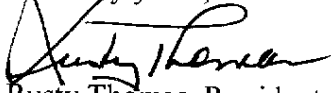
Note: The new code was written to allow for performance standards that would allow conditions to be placed on non-residential uses in conventional zoning districts to alleviate negative impacts to the surrounding environment and neighborhoods. These standards and

what they can control are written into **Article 20-1101** (Protection Standards for Residential Districts), and do not include operating schedules.

Aside from adding a new CN District ("CN1a") tailored to the Delaware Street Property, other provisions of the Code could be adopted and applied to this property. Our existing PD Overlay District could not be used because it requires a minimum of five acres, but this size restriction on the PD District could be eliminated by a Code change. A Special Use Permit could be applied to the property. If this were done, the use could be restricted to the specific restaurant service, the days and hours of operation, and all of the other needed restrictions could be applied. With a SUP enforcement would be assured.

Unless a Neighborhood Plan were to be adopted that incorporates the existing CN1 District into this area, we ask that you not approve the CN1 District for this small, isolated property. If you truly believe that this use for this area is justified, we ask that you chose an alternative to rezoning this property to CN1, an alternative that can legally restrict the property to suitable conditions. We suggest that the most feasible alternative would be to grant the owners a Special Use Permit.

Sincerely yours,



Rusty Thomas, President



Alan Black, Chairman  
Land Use Committee

# East Lawrence Neighborhood Association

P.O. Box 442393  
Lawrence, KS 66044  
eastlawrence@yahoo.com



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October 12, 2006

City of Lawrence  
Planning Commission

Re: 917 Delaware Re-Zoning from RS-7 to CN-1

ELNA members at the September 11, 2006 General Membership Meeting voted to support the conditional spot rezoning of 917 Delaware only with all of the specific conditions and observances for the operation of the commercial activity on this property as outlined below:

1. If the owners of 917 Delaware sell the property and it is used commercially it must be used exactly as outlined in the conditions of re-zoning, or else revert back to residential zoning.
2. Use of the property will be reviewed annually [city/staff -- what city mechanism review annually?] to assess the commercial operation's compliance with the outlined conditions. Any lapse in observance of the below specifics would be grounds for termination of the commercial use.

In addition to the general conditions set forth above, ELNA membership would also support that the conditional spot rezoning of 917 Delaware include the specific conditions and observances for the operation of the commercial activity on this property as outlined below:

- A. The property shall be limited to the following uses:
  - All uses that are allowed in the RS-7 zoning districts
  - Use under zoning district CN-1 defined and limited to a Quality Restaurant operating as described below:
- B. Operational uses of the Quality restaurant shall be limited to:
  - i. Service of no more than 4 nights per week
  - ii. Service of no more than 30 people per night
  - iii. Service shall be provided by reservation only; and
  - iv. Service shall be limited to dinner only; and
  - v. Service shall be limited to the garden house and first floor dining room
  - vi. No dining service shall be provided on the outdoor patio.

C. No exterior signage shall be allowed for the Quality Restaurant.

D. Use of the Property as a Quality Restaurant shall require a legally binding agreement to be in effect (the "Parking Agreement") at all times. A copy of said Agreement is to be kept available for public perusal at all times.

E. The Quality Restaurant shall comply with all regulations of Federal, State and Local law, including but not limited to, the Code, the Americans with Disabilities Act, and Commercial Building Code.

F. Use of the Property as a Quality Restaurant shall require evidence of property and liability insurance which covers both adjacent neighbors and restaurant patrons at all times.

G. Delivery service shall be made from Delaware Street.

H. Prior to operation as a Quality Restaurant, improvements to the property shall be made to limit the impact of any noise from customers to neighboring properties. These improvements may include:

- i. construction of a more extensive solid fence along the southern property line;
- ii. construction of a water feature, waterfall, and additional landscaping; or
- iii. construction of additional enclosed structure for the patio area.

ELNA members at the September 11, 2006 General Membership Meeting voted to support the conditional spot rezoning of 917 Delaware only with all of the specific conditions and observances for the operation of the commercial activity on this property as outlined above and only due to these specific and unique conditions of this property:

A. The business will have a unique contribution to the culture of the neighborhood

B. The site is bounded on at least two sides by non-residential (commercially zoned and in use as commercial)

# East Lawrence Neighborhood Association

P.O. Box 442393  
Lawrence, KS 66044  
eastlawrence@yahoo.com



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October 12, 2006

City of Lawrence  
Planning Commission

Re: 917 Delaware Re-Zoning from RS-7 to CN-1

The ELNA Board does not recommend rezoning the Krause property from residential to commercial zoning for the following reasons:

- The East Lawrence Neighborhood Plan on page 11 states as part of 6 over-all goals: “#1. Develop effective code enforcement, appropriate land use and zoning, and a true sensitivity to housing issues.”
- The East Lawrence Neighborhood Plan on page 14 states as part of 6 specific top priority issues: “#4. Protect residential zoning, especially single family.”
- ELNA board does not support spot zoning and voted unanimously against spot rezoning of 917 Delaware to CN-1 in a vote taken on August 20th.
- The East Lawrence Neighborhood Board is constantly on guard against encroachment by commercial or industrial zones in residential areas. We believe East Lawrence residential zones are comprised of valuable, viable, & historically significant housing stock. It is of particular import to protect our current residential “buffer” zones from encroachment, and conversion to commercial or industrial uses.
- The ELNA Board recognizes that adjacent property owners have significant inherent legal rights with regard to the rezoning of adjacent property. This is a land use issue and not a popularity contest. Putting the onus on the neighbors to come to consensus with the petitioner is divisive to the neighborhood. City land use precedent should prevail.
- The ELNA Board feels that City Staff recommendations against this spot rezoning are relevant and significant.
- The Historic Resources Commission voted unanimously against rezoning.
- The ELNA Board is concerned that the restaurant was originally run in flagrant violation of existing city and state laws. This bad behavior should not be rewarded.

Janet Good, President  
East Lawrence Neighborhood Association



-----Original Message-----

**From:** Mark Kaplan [mailto:mkaplan@earthlink.net]

**Sent:** Monday, September 25, 2006 1:39 AM

**To:** Sheila Stogsdill

**Subject:** A letter to David Burress, posted to you...

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Dear David --

Mark Kaplan here. I don't know if you remember me. I've met you on several occasions, these past near thirty-eight years of my residence in Lawrence...

I'm writing to see if, in your estimation, the Lawrence-Douglas County Planning Commission is about to recommend to the city commission, this Wednesday, that the home and property at 917 Delaware Street, be spot-zoned to accommodate the formerly illegally constructed and operated restaurant of Robert Krause. I see from a past vote of the planning commission that he apparently has near unanimous support for this measure -- in spite of the East Lawrence Neighborhood Association's opposition, the opposition of the Historic Resources Commission, and your own staff's stringent objections.

I have a residence of almost thirty years, a block to the south -- on three city lots -- and I have to wonder what kind of message a commission vote in support of Mr. Krause would be sending to me. Have members of the planning commission taken a look at the situation on the ground, around the site in question? (Perhaps everyone has been eating over there). It doesn't take a rocket scientist to see that if the city were to spot-zone this particular 50-foot lot and home commercial, the rest of the block, composed of ancient, small houses, as old as the city itself -- would go like the proverbial dominoes of Southeast Asia of a generation ago. I have to wonder whether the members of the commission are at all in touch with the fact that the community is on the cusp of finally enacting historic listing protections for much of Old East Lawrence, and that this site is part and parcel of that oldest and most densely populated portion of the historic Old Town Site.

May I open a similar facility in my place -- in spite of its RS-2 zoning -- with the option of coming in for official sanction from planning commissioners if and when I get busted?

This portion of Delaware, like the lots where my own home was built in 1872, were all zoned industrial by the first zoning ordinance in Lawrence, established in 1966 -- when it was assumed that the totality of East Lawrence would be subjected to Urban Renewal. That didn't happen. These lots, and most of the rest of the district, were finally rezoned to match their condition and use, in March, 1983, at the behest of the neighborhood -- as an important conservation and preservation measure, by Commissioners Francisco, Gleason and Shontz. I think that it's a near criminal act to begin to undo that rezoning twenty-three years later -- to accommodate a restaurateur who has done nothing but thumb his nose at the land use ordinances which your commission devises and, in some cases, is called upon to enforce.

What kind of a message are we sending to the community, regarding ANY land use

ordinances on our books, by rewarding the lies and duplicity of this individual -- by giving the gentleman a wink and a nod, this Wednesday?

Thanks for your service David, and your dedication to the welfare of Lawrence. I'll compose a note to the balance of commissioners forthwith, regarding this issue. Thanks for taking the time to read this. Have a good week.

Mark Kaplan  
1029 Delaware Street

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# East Lawrence Neighborhood Association

P.O. Box 442393

Lawrence, KS 66044

eastlawrence@yahoo.com



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August 18, 2006

Sandra Day,  
Lawrence City Planning

Dear Ms. Day

The East Lawrence Neighborhood Association Board of Directors would like to express its opposition to the rezoning of 917 Delaware from residential to CN1. We do not believe that spot zoning is appropriate and sets up a very difficult precedent for the future of the neighborhood.

Thank you,

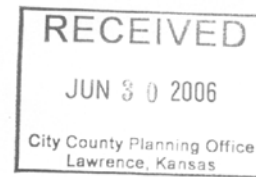
Janet Good  
ELNA President

**Wenger Plant and Corporate Offices**  
 714 Main Street  
 Sabetha, KS 66534-0130 U.S.A.

Telephone: (785) 284-2133  
 Telefax: (785) 284-3771  
 www.wenger.com

June 28, 2006

Lawrence/Douglas County Planning Office  
 P. O. Box 708  
 Lawrence, Kansas 66044



To: Lawrence Planning and City Commission Members

Subject: **Krause Dining** – may it never leave Lawrence

I respectfully wish you to know that my business and my family, both located and residing in Sabetha, Kansas, have long enjoyed the privilege of fine-dining with Molly and Robert Krause. We were introduced to them at their original upscale “home site” restaurant and understand they have now petitioned the City of Lawrence for permission to return to that site from their current address on New Hampshire Street.

Krause Dining is without a doubt our favorite dining experience. While our small town is surrounded by excellent dining options — Topeka, St. Joseph, Kansas City, Brownville & Auburn, Nebraska, to name a few — your city has become our favorite dining site since discovering Krause Dining there many years ago.

It would be our hope that the City Planning Commission would agree to the modest adjustments required in the city’s current zoning code to permit this exceptional upscale dining establishment to continue to service Lawrence and the surrounding communities in the exemplary fashion pioneered by the Krauses.

There is — and please know this is not an exaggeration — no dining experience equal to that provided by Robert and Molly Krause within 100 miles of Lawrence. It would be a gross civic disservice to expel them from your lovely city by obstructing their dream to re-establish a restaurant in their original Lawrence residence.

Thank you for considering my request.

Sincerely yours,

Don Wenger

DW:jh



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July 3, 2006

To: Lawrence Douglas Metro Planning Office

From: Arnold Feinberg  
1019 Delaware  
Lawrence, Ks 66044

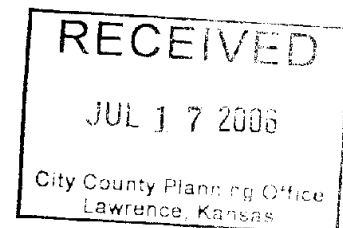
Re: Z-06-14-16 Rezoning request

Attention: Sandra L. Day, AICP, City/County Planner

I wanted to comment on the above request. My property is a block away from the Krause property and I am in favor of changing the zoning so they can continue to operate their restaurant. There have never been any issues with traffic, parking or noise.

Sincerely,

*Arnold Feinberg*  
Arnold Feinberg



DIANA DUNKLEY  
STUDIO 3D  
1019 DELAWARE ST.  
LAWRENCE, KS 66044  
785-842-2858

---

7/15/2006

To: Sandra L. Day, City/County Planner  
Planning Office  
6 East Sixth, PO Box 708  
Lawrence, KS 66044

Re: Zoning Request Z-06-14-06

Dear Ms. Day:

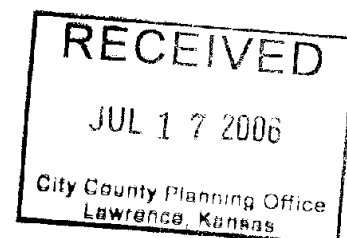
Please pass on my comments about the above zoning request to the Planning Commission:

I support the rezoning of the property owned by Robert and Molly Kraus at 917 Delaware from RS-2 to CN-1. I am located at 1019 Delaware, and am familiar with the Kraus' property and what they want to do with it if it is rezoned. They have improved the neighborhood since moving there many years ago, and I believe the type of enterprise that the Kraus's are in has not and will not have any negative impact on the area.

Thank you,



Diana Dunkley



July 3, 2004

To:

Douglas County Commissioners

Re: Krause's Dining Establishment

We are anxious to let you know how strongly we feel about Molly and Robert Krause's situation. They are a credit to our community, and with people as talented as they are, if we, as a community do not make them welcome and do what we can to make their dream happen, we will lose this talented family.

Where they live and would like to reopen their dining establishment could be a wonderful investment in the community's economy, in downtown specifically. They are renowned in the KC area and elsewhere for their culinary expertise.

Their property could easily be rezoned by itself, so they could reopen their doors. We have been told that private property owners across the street from the Krause's have agreed that customers may park there. This area is not just residential even now, as there are other endeavours already approved of a business nature.

Please approve a zoning variance for their land so we all can continue to enjoy their wonderful cuisine as well as their family and their contribution to Lawrence.

Sincerely,  
Robert and Joleen Bechtel  
3804 Park Place  
Lawrence, KS

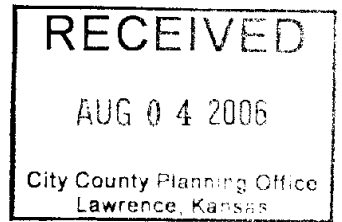
Joleen Bechtel  
Robert Bechtel

RECEIVED

JUL 14 2006

City County Planning Office  
Lawrence, Kansas

To Whom It May Concern,



As a property owner in the neighborhood of  
of the Krause family's operation. I support their  
request to rezone their house to be dual commercial  
residential. I think it would be beneficial to this  
community to foster dual uses for land to avoid  
sprawl. Thank you for your attention

Sincerely,

A handwritten signature in black ink, appearing to read "Carl Masters". The signature is fluid and cursive, with a long horizontal stroke at the end.

Carl Masters

937 Pen.

Lawrence KS 66044



August 10, 2006

Dear Lawrence-Douglas County Metropolitan Planning Commission,

I live behind the ~~Krause's~~ at 946 Pennsylvania and support the proposal to rezone the tract to CN-1. From my understanding, their business is not intrusive or unfriendly upon our neighborhood. and allowing them to continue their operation could be no more threatening to the block than the recently approved 800-Block Pennsylvania rezoning.

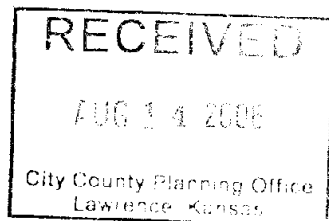
Thank You,

ZLern

ZACHARY LERNER

946 Pennsylvania St.

Lawrence, KS 66044.



RECEIVED

AUG 21 2006

City County Planning Office  
Lawrence, Kansas

August 17, 2006

Lawrence Douglas County Metropolitan Planning Commission  
6<sup>th</sup> & Massachusetts Street  
Lawrence, Kansas 66044

Dear Commissioners:

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We are property owners and/or residences of several properties on the 900 block of Pennsylvania Street.

We believe the business Mr. & Mrs. Krause would like to operate would be an asset to the neighborhood. In fact it would help improve the area. The Eastside Tavern at the corner of 9<sup>th</sup> and Pennsylvania has often been loud and its clients have disturbed us in the past. Underage drinkers and the front deck are the two complaints we have about the tavern. The Krause's clients would be responsible adults and their property and buildings are of a nice design.

We have only one question about the property. What would happen should the property be sold? Would it continue to be zoned for private dining or return to family dwelling?

Thanks you for this opportunity to address the commissioners about this matter.

Respectfully,

Ramon & Virginia Romero  
Property owners

*Virginia Romero Ramon Romero*

Judy Romero  
929 Pennsylvania

*Judy Romero*