

PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
9/26/11

ITEM NO. 5B: CS TO RM12D; .27 ACRES; 804-806 PENNSYLVANIA ST (MKM)

Z-8-23-11: Consider a request to rezone approximately .27 acres from CS (Strip Commercial) to RM12D (Multi-Dwelling Residential) within the 8th & Pennsylvania Urban Conservation Overlay District, located at 804-806 Pennsylvania Street. Submitted by Bartlett & West, Inc., for Ohio Mortgage Investors, LLC, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately .27 acres located at 806 Pennsylvania Street from CS to RM12D, based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval subject to the following condition:

Ordinance shall be published after the deed for the sale of the property to Ohio Mortgage Investors, LLC has been recorded with the Register of Deeds.

Reason for Request: *“Rezoning of the existing property to make it compatible with the residential living intent of the structure.”*

KEY POINTS

- The property contains a contributing structure to the East Lawrence Industrial Historic District, National Register of Historic Places; therefore, the Historic Resources Commission (HRC) must review the rezoning request under the State Preservation Law (K.S.A. 75-2724, as amended).
- The subject property is regulated in part by the *8th and Penn Neighborhood Redevelopment Zone Design Guidelines* and was part of the *8th and Penn District Neighborhood Revitalization Plan*, which was adopted by the City Commission in 2007 with Ordinance 8093. The plan expired after 5 years and is no longer in effect.
- The subject property and the area around the subject property has been master planned through the design guideline process.
- Ohio Mortgage Investors LLC purchased the property at a Sheriff's sale and have provided documentation of the purchase. The deed for the property has not yet been recorded with the Register of Deeds.

ATTACHMENTS

Attachment A Site Plan for 806 Pennsylvania Street, documenting the existing residential structure and the proposed parking to be shared with other properties in the District. (SP-8-46-11)

Attachment B *8th and Penn Neighborhood Redevelopment Zone Design Guidelines*

ASSOCIATED CASES/OTHER ACTION REQUIRED

Other action:

- Historic Resources approval. The HRC confirmed the approval of the rezoning at their September 15, 2011 meeting.

- City Commission approval of the rezoning request and publication of Ordinance.
- Recordation of the deed establishing Ohio Mortgage Investors, LLC as the property owner with the Register of Deeds prior to the publication of the ordinance.

Associated Cases:

- Administrative approval and recording of Minor Subdivision (MS-8-5-11). The subject property is included in this Minor Subdivision and the lot lines are being reconfigured to reduce the area to .27 acres.
- Administrative approval of site plan (SP-8-46-11) to document the existing duplex building and to provide a new shared parking lot.
- Historic Resources Commission approval of minor subdivision (MS-8-5-11) and site plan (SP-8-46-11). Any conditions of approval placed on these items by the Historic Resources Commission must be met before the recording of the minor subdivision with the Register of Deeds or the release of the site plan to Development Services for building permits.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No public comment was received prior to printing of this staff report.

Project Summary:

This request is for rezoning of one 11,761 sq ft lot located at 806 Pennsylvania Street from the CS (Commercial Strip) District to the RM12D (Multi-Dwelling Residential) District. (See Figure 2, page 8) The RM12D District is a 'medium-density' district, which permits duplex development at a maximum density of 12 dwelling units per acre. The subject property lot lines are being revised with a minor subdivision to reduce the area to .27 acres or 11,761 sq ft. The duplex development on this lot will result in a density of 7.4 dwelling units per acre which is compliant with the density standards for the RM12D District.

A parking area is proposed on the subject property and on-street parking will be located adjacent to the property. This parking will meet the requirements of the duplex use and will be used to meet the parking requirements of other uses in the Overlay District. The use of on-street parking to meet the parking requirement is not typical but is permitted with the *8th and Penn Neighborhood Redevelopment Zone Design Guidelines*. The site plan which has been submitted for this lot illustrates the proposed development and is included with this report as Attachment A.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The proposed request is within conformance of allowable uses set by the 8th and Penn Neighborhood Design Guidelines and also Horizon 2020."

This request is governed by general policies of *Horizon 2020* and the zoning standards of the *8th and Penn Neighborhood Redevelopment Zone Design Guidelines*, which are standards used to implement the 8th and Pennsylvania Urban Conservation Overlay District. *Horizon 2020* is the focus of this section of the report. The *8th and Penn Neighborhood Redevelopment Zone Design Guidelines* are discussed later.

The Lawrence Future Land Use Map (Map 3-2) of *Horizon 2020* designates the subject property for office/research, industrial and warehouse uses, though residential uses are designated for nearby properties. Several residential strategies of Chapter Five – Residential

Land Use support the requested RM32 zoning, including policies related to appropriate infill, using a mixture of housing types, and protecting and enhancing a neighborhood's character.

Staff Finding – The proposed RM12D zoning is generally compatible with recommendations for infill residential development in *Horizon 2020*.

2. ZONING AND USE OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

Current Zoning and Land Use: CS-UC (Commercial Strip) with (8th and Pennsylvania Urban Conservation) Overlay District; duplex residence.

Surrounding Zoning and Land Use: To the north: IG (General Industrial and 8th and Pennsylvania Urban Conservation Overlay) District; utility facility.

To the west: CS (Commercial Strip and 8th and Pennsylvania Urban Conservation Overlay) District; undeveloped property.

To the south: CS (Commercial Strip and 8th and Pennsylvania Urban Conservation Overlay) District; vacant building with an active development proposal for an art studio with retail sales under review.

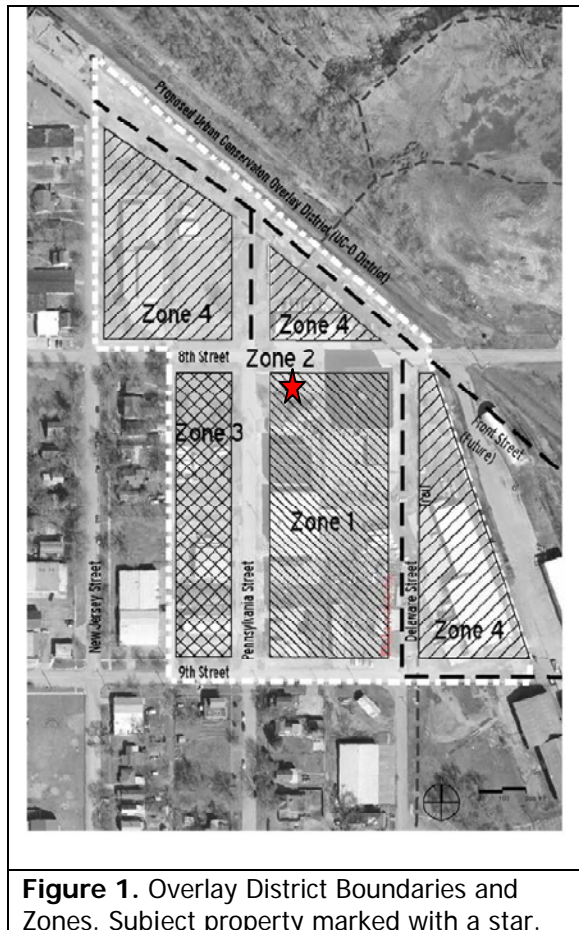
The subject property and the adjacent property to the south, east and west are not only located within an Urban Conservation Overlay zone, but the base zoning C-5 [converted to CS] was conditioned via the adopting ordinance (Ord 8054). Per the conditions of the zoning, the following uses are prohibited in the CS district:

1. Bars [unless 55% of gross receipts are derived from food sales as outlined in 20-509(5)(i)]
2. Liquor Store
3. Ambulance Service
4. Car or Truck Wash
5. Auto Repair
6. External drive-through ATM or drive-through window [walk-up ATM's are allowed]
7. Furriers
8. Pawn Shop
9. Mobile Home Sales and Service
10. Golf Driving Range
11. Pet Store [animal sales]
12. Loan Office [short-term cash advance loans]
13. Convenience store with Gasoline Sales

The building was rezoned C-5 (General Commercial) prior to the adoption of the 2006 Development Code. The C-5 Zoning District converted to the CS with the 2006 Code. Duplex residential uses were permitted uses in the C-5 District but are not permitted within the CS District. Currently the duplexes are non-conforming uses and are regulated under Section 20-

1502 of the Development Code. The rezoning is being requested to bring the duplex use into conformity with the Code.

The *8th and Penn Neighborhood Redevelopment Zone Design Guidelines*, adopted in January of 2007, was the result of a planning effort that included participation from the property owners, East Lawrence Neighborhood Association, and other stakeholders. It designates the subject property within Zone 1 of the district and notes:



“The centerpiece of the redevelopment zone is the group of masonry manufacturing buildings bounded by East 8th Street on the north, Pennsylvania Street on the west, Delaware Street on the east, and East 9th Street on the south that is eligible for listing as a historic district in the National Register of Historic Places. These industrial buildings range from one story to four stories in height and date from the 1880’s through the 1920s. The buildings are ideal candidates for rehabilitation into mixed adaptive uses that will allow them to retain the necessary level of historic architectural integrity to continue to contribute to an understanding of the historic district’s associations with commerce and architecture in Lawrence.”

The zoning standards at the time precluded mixed-use type development. The *8th and Penn Neighborhood Redevelopment Zone Design Guidelines* states the following related to this issue:

“The Lawrence Code recognized this problem and has provided a solution – the UC-O District. A UC-O District allows the City and a developer to tailor the development standards applicable to an area so that mixed-use development of appropriate size, orientation, and setting can be built within a neighborhood or area.”

Staff Finding – The subject property is located within the 8th and Pennsylvania Urban Conservation Overlay District and is regulated by the *8th and Penn Neighborhood Redevelopment Zone Design Guidelines*. The property contains a masonry building that was used for industrial and retail uses in the past, but has been in use as a duplex residence since 1984. The C-5 District permitted the duplex use, but the CS District does not. The RM12D zoning is the appropriate district to accommodate the existing use.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

"An old warehouse district with primarily low-used or vacant structures."

The surrounding area contains industrial, office and residential uses and clearly reflects the mixed use nature of East Lawrence. The 8th and Penn area is intended to be a transitional area between the residential areas to the south and west and the more intense industrial uses to the north and east.

Staff Finding – The area contains a mix of uses. The proposed rezoning removes the non-conforming status of the existing use and is in keeping with the character of the neighborhood.

4. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY

The subject property is located within the East Lawrence Neighborhood. A land use plan was adopted for the East Lawrence Neighborhood in 1979 designating the property for industrial uses. A more recent plan, the *East Lawrence Neighborhood Revitalization Plan*, was adopted in November of 2000. The Revitalization Plan is an action plan for maintaining and improving the vitality of the neighborhood rather than a land use plan.

As mentioned earlier, the *8th and Penn Neighborhood Redevelopment Zone Design Guidelines* were adopted in 2006 and is considered by staff to be the land use plan for the area. The guidelines recommend a mix of uses in this area, with a limitation on retail to prevent it from being the predominate use.

Staff Finding – The proposed rezoning from CS to RM12D is consistent with the recommendations of the plan for the area.

5. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED UNDER THE EXISTING ZONING REGULATIONS

Applicant's Response:

"The area is no longer suitable for the proposed use of the existing structure which is designated as CS zoning. The area is changing and will be revitalized as a part of this rezoning process and overall development."

The property is currently developed with a duplex. The duplex residential use was permitted with the previous C-5 zoning, but is not permitted within the CS District. The property was rezoned from industrial zoning districts to the C-5 District in order to permit a mix of uses; however, with the adoption of the 2006 Development Code the zoning designation converted to the CS District which does not permit the range of uses that were permitted in the C-5 District. Specifically, the CS District does not permit the existing duplex residential use that was permitted with the C-5 zoning.

The overlay district placed a limit on the amount of retail space that could be developed within this district at 25% of the floor area. With the prohibition of duplex uses in the CS District and the limitation on retail area possible in the district, the types of uses which are possible on this

property are limited. The property would be suited for an office use, but the building would need to be remodeled and brought into compliance with building codes for that use.

Staff Finding –The property is developed with a duplex residence. This structure could be converted and brought into compliance with building codes for commercial or office uses. With these changes, the property would be suited for the commercial uses permitted within the CS District; however, the property -as developed- is most suited to the RM12D zoning being requested.

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's Response:

"The property was previously zoned CS in 2006."

The subject property contains a duplex residence which is currently inhabited. The National Register Nomination for this property notes that the structure at 806 Pennsylvania was built about the same time as the Poehler Building and it is assumed that it served as a storage for explosives. It was later used for seed storage. The nomination also notes that a residential structure was located to the north of the existing building at one time. The 1984 Polk Directory provides 2 residential phone numbers for this property.

Staff Finding – The subject property is not vacant, but is being used as a duplex residence. The property has historically been used as storage, office and residential uses.

7. EXTENT TO WHICH APPROVING THE REZONING WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's Response:

"The modification of the current zoning from CS to a residential designation will not detrimentally affect nearby properties at all."

The 8th and Penn Neighborhood Redevelopment Zone Design Guidelines expressed concern with the possibility of having too much retail in the zone.

"As the impetus to rezone the property and create a UC-O District for the 8th and Penn Neighborhood Re-Development Zone is premised on creating a vital mixed-used neighborhood, it is important that restrictions be crafted that insure this vision comes to light. Namely, neither the Developer, City, nor the East Lawrence Neighborhood Association, desires this property to be developed for "big box" retail uses or as an area that is principally retail in use. "

The Guidelines limited the amount of retail that could be developed within the zone and established a maximum size for any single retail shop or tenant in order to prevent the area from becoming retail in nature. As the RM12D District does not permit retail uses, the rezoning would remove the possibility of developing 806 Pennsylvania commercially and would maintain the existing residential use.

Staff Finding – The proposed rezoning would not negatively impact nearby properties. The rezoning would maintain the existing residential use at 806 Pennsylvania St and remove the

possibility of developing the property commercially. This would assist in maintaining the limits that have been set on retail uses in the guidelines.

8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION

Applicant's Response:

"The relative gain will be through a productive use of now mostly vacant property, which will benefit the local surrounding neighborhood and the entire community in general."

Evaluation of this criterion includes weighing the benefits to the public versus the hardship imposed on the owners of the subject property if the rezoning were denied. Benefits are measured based on anticipated impacts of the rezoning request on the public health, safety, and welfare.

The denial of the rezoning request will not alter the use of the property, but would maintain the duplex residence's status as a nonconforming use; therefore, it would have no impact to the public health, safety and welfare.

Staff Finding – The denial of the rezoning request would be a hardship to the applicant as the existing use would remain a nonconforming use. There is no gain to the public by denying the application as no change in use is being proposed.

9. PROFESSIONAL STAFF RECOMMENDATION

The 8th and Penn area has received a good deal of process during the last decade. A very specific proposal for redeveloping the larger area was put forth and approved through the public zoning process in 2006. The project included an Urban Conservation Overlay District, conditional zoning, Historic Review, a Neighborhood Revitalization Act (NRA), a Developer Agreement, and public improvement plans to construct adjacent streets and alleys. A new owner desires to implement the formally approved plans with some revisions to the use of the Poehler building. The current request attempts to work within this bundle of development rights afforded by the previous approvals, but much of the work needs to be revisited, including the zoning, NRA, Developer Agreement, financing of public improvements, etc. Staff appreciates that a developer is looking to redevelop the area and is finding creative ways to finance the improvements. The use of the Poehler building as a Multi-Dwelling Structure is appropriate and an important step in continuing to revitalize this part of the city.

Staff recommends approval of the rezoning request based on the findings of this report, subject to the condition that the Ordinance be published after the deed for the sale of the property to Ohio Mortgage Investors, LLC has been recorded with the Register of Deeds.

