

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
7/22/15

ITEM NO. 5 SPECIAL USE PERMIT FOR 804 PENNSYLVANIA ST (MKM)

SUP-15-00261: Consider a Special Use Permit for a *Bar* located at 804 Pennsylvania St. Submitted by Flint Hills Holdings Group LLC, for Ohio Mortgage LLC, property owner of record.

STAFF RECOMMENDATION: Planning Staff recommends approval of a Special Use Permit for a *Bar* at 804 Pennsylvania Street subject to the following conditions:

1. Prior to release of the Special Use Permit for issuance of a building permit the applicant shall provide an executed site plan performance agreement to the Planning Office.
2. Any physical changes to the site which are required as a result of this Special Use Permit must be reviewed and approved by the Historic Resource Commission prior to the release of the site plan for building permits.
3. The following standards apply to this use:
 - a. Occupancy. No more than 75 persons may be within the outside dining area at any one time. The interior of the building is limited to no more than 44 persons by the Fire Code. (The site shall be signed with this occupancy limit.)
 - b. Seating. The number of tables and chairs, as shown on the approved site plan, shall be provided to patrons during all hours that the outside dining area is open, including during Temporary Special Events.
 - c. Operating Hours. The outdoor seating area shall be closed (unoccupied) at 11:00 p.m. Sunday through Thursday and 12:00 a.m. Friday and Saturday. Business hours inside the building are unrestricted.
 - d. Sound Level. Amplified live music on the outside dining area shall cease at 10:00 p.m. Sunday through Thursday, and at 11:00 p.m. Friday and Saturday. Other music (live acoustical and digital or stereo sources) shall be kept at an ambient level after those times.
 - e. Outside Seating Area. A 4 ft high railing should be installed along the 18" wall around the outdoor seating area to clearly demarcate the area and prevent patrons from spilling over into the parking area.
 - f. Food Sales:
 - i. Food shall be available for purchase at all times the establishment is open. The food may be provided within the building or by food trucks on site.
 - ii. The food shall consist of menu items more substantial in nature than the typical nuts and/or popcorn offered at bars. Items such as pastries, breakfast food, sandwiches and sides, or meals will meet the intent of this requirement.
4. Provision of a revised site plan with the following changes:
 - a. Addition of a note listing the standards applied with this SUP to the *Bar* use.
 - b. Addition of a note listing the revised restricted uses per Zoning Ordinance No. 9101.
 - c. Addition of a 4 ft high railing along the 18" high wall around the outdoor seating area.

Applicant's Reason for Request:

"This request is being made because the current restrictions stated in Ordinance 8920, Section 2, item a.i. create an unnecessary burden on the potential operator of the business at 804 Pennsylvania. We have had three separate business owners approach us and preliminarily reach an agreement about operating a Bistro business out of the space, but all three have backed out upon learning of the restrictions and reporting burden placed on them after opening. Running a small business is difficult enough without the added burden of chasing around upwards of ten to fifteen food trucks for receipts and reporting—many of which will be coming through town from out of city or out of state. Business owners need to be able to lean on their core competency in creating sustainable businesses, and relying upon the property and accurate reporting of another business owner (i.e. food trucks) puts them in a position to fail before the doors ever open. This has also deterred food trucks from signing agreements to participate because the reporting expectations placed on them would not be what is required to operate anywhere else. The coffee bar owner needs to focus on that aspect of the model, the food trucks need to focus on their part, and this has been stated by all involved to date.

The bistro site plan and architectural layout will not change even after approval of the SUP—the concept is exactly the same. In fact, we expect food sales to increase when these restrictions are lifted because more vendors will want to participate in this highly unique business model. We want this to be a place that neighbors, business owners, property owners, tenants and homeowners are proud to support. If this alienates anyone in East Lawrence, then this business will not succeed in any capacity. We want families to come down with their dogs to enjoy a sunny Sunday, business owners to grab lunch in between meetings, and neighbors to meet friends here and carry on a conversation in a quiet, quaint, controlled environment.

The ownership of this development is the same ownership group for the surrounding Poehler Lofts and Cider Gallery. If this business becomes a nuisance, no one has more to lose than the owners. This project equates to 1/60th of the investment in the neighborhood to date by this development group, and under no circumstances will 1/60th ever cannibalize the remaining 59/60th investment in the Warehouse Arts District.

At the end of the day, we need to determine what is the best environment and framework we can provide to ensure the business operators can operate a business with a chance to proceed. If this SUP provides terms that are agreeable to all, then we will be ready to move forward with construction right away. This will create 3 permanent jobs within the walls of the Bistro right away, and a multitude of others indirectly. This will help grow the food truck culture in Lawrence which will in turn create more jobs through their success, and will provide another avenue for existing businesses to grow such as Lucky Dog, Centro cigars, Kambucha, and we hope, many others."

ASSOCIATED CASES:

- Z-12-80-05: Establishment of an Urban Conservation Overlay District for the 8th and Penn Neighborhood Redevelopment Zone and development of Design Guidelines. City Commission adopted on October 24, 2006 with Ordinance No. 8053.
- Z-01-01-06: Rezoning of 5.49 acres from M-2/M-3 (General/Intensive Industrial) Districts to C-5-UC (Limited Commercial with Urban Conservation Overlay) District. Approved by City

Commission on December 19, 2006 with conditions to restrict the uses. The restricted uses were listed in Rezoning Ordinance No. 8054.

- Conversion: The C-5 (Limited Commercial) Zoning Designation converted to CS (Commercial Strip) with adoption of Land Development Code on July 1, 2006.
- Z-08-23-11: Rezoning of the subject property from CS-UC (Commercial Strip with Urban Conservation Overlay) to RM12D-UC (Multi-Dwelling Residential with Urban Conservation Overlay) to remove the nonconformity status from the duplex use. Approved by City Commission on October 18, 2011 with adoption of Rezoning Ordinance No. 8677.
- Z-13-00287: Rezoning of the subject property from RM12D-UC (Multi-Dwelling Residential with Urban Conservation Overlay) District to CS-UC (Commercial Strip with Urban Conservation Overlay) District. Approved by City Commission on November 5, 2013 with adoption of Rezoning Ordinance No. 8920. Conditions applied on the original C-5 Zoning for the District were applied with a change to allow 2 years for compliance with the 55% food sales requirement for the *Bar* use.
- SP-13-00349: Site plan for conversion of a duplex dwelling to a *Quality Restaurant/Bar* at 804 Pennsylvania Street. Site plan included 2,440 sq ft customer service area total: 1200 sq ft customer service area in the building, and 1240 sq ft outside dining. Administratively approved on November 12, 2013.
- ORD. 9026: Revision to City Code to allow permanently sited mobile food vendor units when approved with a site plan. Approved by City Commission on October 7, 2014.
- SP-14-00220: Site plan to include a space for the permanent location of Mobile Food Vendors at 804 Pennsylvania Street which would be used to meet the 55% food sales requirement. The site plan included 2,649 sq ft of customer service area total: 1084 sq ft in the building, and 1,565 outside dining. Administratively approved on July 3, 2014.
- Z-15-00022: Rezoning of subject property from CS-UC to CS-UC (Commercial Strip with Urban Conservation Overlay) District to revise the condition restricting uses to permit a *Bar* use without the 55% food sales. The City Commission approved this rezoning with adoption of Ordinance No. 9101 at their May 19, 2015 meeting with a revised condition to allow a Bar use without the 55% food sales requirement when the use is approved with a Special Use Permit. The following is the list of restricted uses as revised with Z-15-00022:
 - (i) Bar or Lounge, Nightclub, or other Licensed Premises, unless:
 - (A) 55% of gross receipts from said use are derived from the sale of food for consumption on the premises (this condition shall be applied beginning on the two-year anniversary of the commencement of the use); or
 - (B) approved as a Special Use pursuant to City of Lawrence, Kan., § 20-1306 (Jan. 1, 2015).
 - (ii) Liquor Store;
 - (iii) Ambulance Service;
 - (iv) Car or Truck Wash;
 - (v) Auto Repair;
 - (vi) External drive-through ATM or drive-through window (walk-up ATM's allowed);
 - (vii) Furriers;
 - (viii) Pawn Shop;

- (ix) Mobile Home Sales and Service;
- (x) Golf Driving Range;
- (xi) Pet Store (animal sales)
- (xii) Payday Advance and Car Title Loan Businesses; and
- (xiii) Convenience Store with Gasoline Sales.

OTHER ACTION REQUIRED

- City Commission approval of SUP application and adoption of SUP Ordinance.
- Publication of SUP Ordinance.
- Provision of a revised site plan reflecting the changes or standards applied with the Special Use Permit to the Planning Office.
- Historic Resource Commission review and approval of change of use and any changes needed to the site plan.
- Building Permits must be obtained from Development Services prior to development activity occurring on the site.

KEY POINTS

- The property contains a contributing structure to the East Lawrence Industrial Historic District, National Register of Historic Places (Figure 1); therefore, the Historic Resources Commission (HRC) must review the Special Use Permit request under the State Preservation Law (K.S.A. 75-2724, as amended). The Historic Resource Administrator administratively approved this SUP permit and the approval is scheduled for confirmation by the HRC at their July 23, 2015 meeting. Any changes to the site plan required as a result of this Special Use Permit must be reviewed by the HRC before the site plan is released.
- The subject property and the surrounding area has been master-planned through the 8th and Pennsylvania Urban Conservation Overlay District and is regulated in part by the *8th and Penn Neighborhood Redevelopment Zone Design Guidelines*.
- Shared and on-street parking is utilized throughout the *8th and Penn Neighborhood Redevelopment Zone*.
- The City Commission approved the rezoning change to allow a *Bar* use without an associated restaurant provided the impacts on nearby properties are mitigated through site specific conditions established with the review and approval of a Special Use Permit.
- The applicant is not proposing changes to the development approved with Site Plan SP-14-00220; however, changes may be required as part of the standards established with the Special Use Permit.



Figure 1. Historic structure on the property, proposed for use as a bar/bistro.

PLANS AND STUDIES REQUIRED

The studies and plans that were provided with the previously approved site plan, SP-14-00220, are adequate as no physical changes are being proposed to the site with this request.

PUBLIC COMMENT

- An area property owner called and provided a letter to express opposition to live music.

ATTACHMENTS

A: Zoning Ordinance No. 9101

B: Approved site plan, SP-14-00220

C: Public Communications

GENERAL INFORMATION

Current Zoning and Land Use:

CS-UC (Commercial Strip with Urban Conservation Overlay) District with conditions; vacant building which has site plan approval for development as a Bistro/Bar with a requirement that 55% of the total retail sales must be from food sales.

Surrounding Zoning and Land Use:

To the north:

IG-UC (General Industrial with Urban Conservation Overlay) District; vacant utility yard, most recent use was *Heavy Wholesale Storage and Distribution*.

To the west:

CS-UC (Commercial Strip with Urban Conservation Overlay) District; Undeveloped land under same ownership as subject property.

To the south:

CS-UC (Commercial Strip with Urban Conservation Overlay) District; Art gallery with retail space and office uses.

To the east:

RM32-UC (Multi-Dwelling Residential with Urban Conservation Overlay) District; *Multi-Dwelling Structure* (Figure 2)

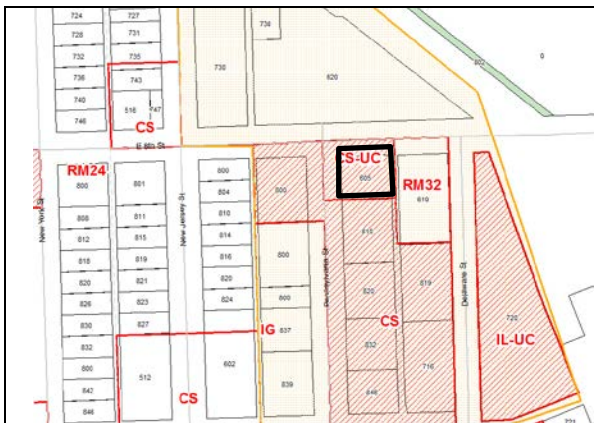


Figure 2a. Zoning of area. Subject property is outlined. Hatched area -- conditional zoning. Stippled yellow area -- UC (Urban Conservation Overlay) District.

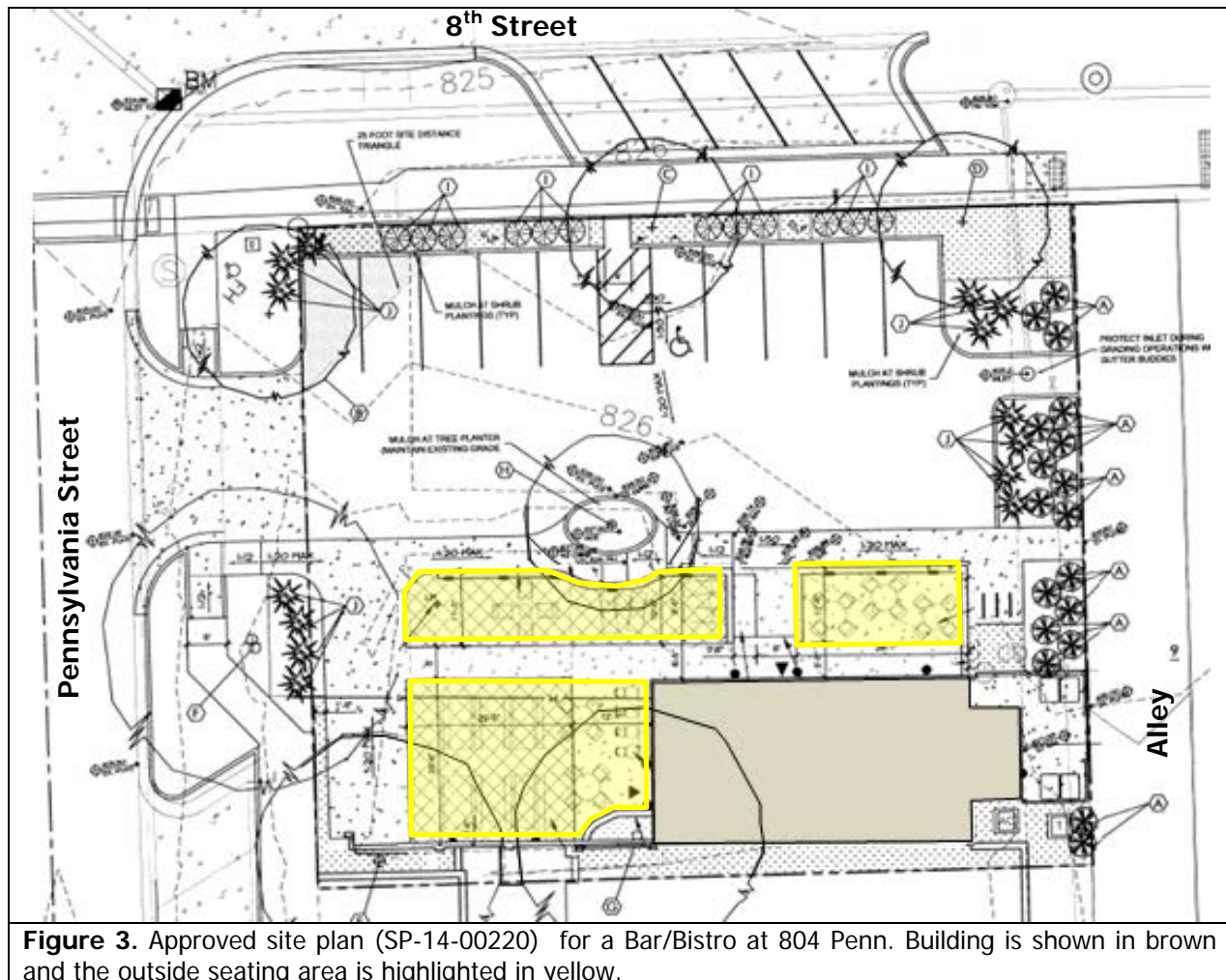


Figure 2b. Land use in the area. Subject property is outlined.

Summary of Request

The property was rezoned in January of 2015 to revise the restrictions of use to allow a *Bar* use without the 55% food sales requirement when the *Bar* use is approved with a Special Use Permit. The Special Use review and approval process includes a public review and evaluation of a use's operating characteristics and site development features. This review is intended to ensure that proposed Special Uses will not have a significant adverse impact on surrounding uses or on the community at-large.

A site plan for the Bistro/Bar (with 55% food sales requirement) was approved in 2014 with spaces for two on-site food trucks (Figure 2). This site plan, SP-14-00220, serves as the site plan for this SUP request as no changes are being proposed to the property. The focus of this review is on the possible impacts the proposed *Bar* use could have on nearby land uses and the establishment of specific standards and conditions to ensure the development is compatible with the area.



Review and Decision-Making Criteria (Land Development Code Section 20-1306(i))

1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE

Applicant's Response:

"Yes."

Typically, Special Use Permits include a site plan which is reviewed for compliance with the Development Code. The site plan in this case, SP-14-00220, (Figure 2) was found to be compliant with the Development Code and was approved in 2014.

Staff Finding – The site plan for this use, SP-14-00220, was found to be compliant with the Development Code and was administratively approved in 2014. The proposed use complies with the applicable provisions of the Development Code.

2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS

Applicant's Response:

"Seeing as how the concept for the restaurant will not change if approval is given, the impact will be exactly the same as our previously approved site plan and concept. This will not become a loud, obnoxious, collegiate bar. We aim to serve those in the neighborhood and anything that is not respectful to their wishes and offering a product they will not enjoy is counterproductive to all. Food trucks will always have a place on site and be vital to the business model. Coffee, baked items, and food truck breakfast items will still be available in the mornings. A wide range of spirits, craft cocktails, craft beers, and affordable domestic beers will be offered to attract the diverse citizens that frequent the Warehouse Arts District right now. We would love for people to bring their dogs down to the patio for a weeknight beer, come with close friends for a cocktail before they head home after dinner, or provide a place where business owners down the street can bring clients to discuss their next partnership opportunity. This will be an establishment that people will have pride in and because of that will maintain an atmosphere that is suitable for all.

The outdoor seating area is the dominant use on the site with an area slightly larger than the area of the building. The building is approximately 1084 sq ft while the outdoor seating area has an area of approximately 1565 sq ft. The site plan depicts seating for 32 individual seats and 4 picnic tables in the outdoor seating area, which could accommodate between 56 and 64 customers.

The 55% Food Sales requirement allows a bar only when accessory to a restaurant use. The different nature of the *Restaurant* and *Bar* outdoor dining or seating areas can result in differing impacts to an area. Patrons visiting a restaurant's outdoor dining area typically stay on site for shorter periods of time than patrons of an outdoor area with a bar. Occupancy with a restaurant use is typically limited to the number of seats provided; however, a bar's outdoor area can have greater occupant levels as many patrons remain standing. Televisions and amplified music are more often associated with a bar's outdoor area than a restaurant's. There is usually more interaction between patrons in a bar's seating area while conversations in a restaurant's seating area are usually limited to the table. A stand-alone bar with the amount of outdoor seating that is proposed could generate noise from activities or amplified music in the outdoor seating area that could have a negative impact on nearby properties. In staff's opinion, it is the outdoor seating area that would be the source of possible negative impacts with the surrounding properties.

The proposed bar is within the interior of the 8th and Penn Neighborhood Redevelopment Zone (Figure 2) and is separated from the residences to the west by Pennsylvania Street, and a vacant lot and industrial uses which are located along the west side of Pennsylvania Street. The closest

single-dwelling residence is approximately 200 ft from the subject property; however, the outdoor seating area is just across the alley from the new residential apartments developed in the Poehler Building to the east.

Operating restrictions that could be used to mitigate the negative impact associated with the activity in the outdoor seating area could be a time limit on amplified music, a limit on the number of people that can be in the outdoor area, or an early closing time. Staff recommends the following list of standards to minimize the impact of the activity in the outdoor area:

- g. Occupancy. No more than 75 persons may be within the outside dining area at any one time. The interior of the building is limited to no more than 44 persons by the Fire Code.
- h. Seating. The number of tables and chairs, as shown on the approved site plan, shall be provided to patrons during all hours that the outside dining area is open, including during Temporary Special Events.
- i. Operating Hours. The outdoor seating area shall be closed (unoccupied) at 11:00 p.m. Sunday through Thursday and 12:00 a.m. Friday and Saturday. Business hours inside the building are unrestricted.
- j. Sound Level. Amplified live music on the outside dining area shall cease at 10:00 p.m. Sunday through Thursday, and at 11:00 p.m. Friday and Saturday. Other music (live acoustical and digital or stereo sources) shall be kept at an ambient level after those times.
- k. Outside Seating Area. A 4 ft high railing should be installed along the 18" wall around the outdoor seating area to clearly demarcate the area and prevent patrons from spilling over into the parking area.

Most of the public communications provided for the rezoning request spoke in favor of a restaurant and bar use. The City Commission voted to revise the zoning restrictions to allow a *Bar* without a required food sales percentage but noted that food sales should remain an important component of the establishment. Staff proposes the following condition to achieve that goal:

- I. Food Sales:
 - a. Food shall be available for purchase at all times the establishment is open. The food may be provided within the building or by food trucks on site.
 - b. The food shall consist of menu items more substantial in nature than the typical nuts and/or popcorn offered at bars. Items such as pastries, breakfast food, sandwiches and sides, or meals will meet the intent of this requirement.

In staff's opinion, these standards should limit the occupancy, hours, and noise associated with the outdoor area and result in a bar that is compatible with the nearby residential uses while also insuring that use will maintain a restaurant aspect.

Staff Finding – The proposed standards on the use applied through the Special Use Permit would limit the features of the outside seating area that may be incompatible with nearby land uses. With the appropriate standards, the use should be compatible with adjacent land uses.

3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED

Applicant's Response:

"No, the proposed use of a restaurant will balance out the residential and office space in the Warehouse Arts District. This development will offer a place to relax, unwind, and connect with colleagues/clients or reconnect with neighbors. It will be an asset to the area and to Lawrence when the design is implemented. Keep in mind this building is 1300 sq ft gross, compared to the 250,000 sq ft + of occupied developed property to go along with the additional 100,000 sq ft + of undeveloped property. This equates to roughly 1% of the square footage in the district that is controlled by this ownership group."

The nature of the outdoor seating area could have an impact on the value of other property in the neighborhood. If the use becomes a nuisance nearby property values could drop. On the other hand, if it becomes an amenity to the area it could have a positive effect on the value of nearby properties.

Staff Finding – The outdoor seating area has the capability of negatively impacting property values if it is managed in similar fashion to other bars. Staff recommends adoption of standards on the outdoor seating area to insure that the use has no significant negative impact on other properties in the area.

4. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTILITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT

A site plan has been approved for a bar/bistro at this location. The property has direct access to Pennsylvania Street, is adjacent to 8th Street on the north, and has an alley along the east property line. Adequate access is provided for public safety. The studies that were submitted with the previously approved site plans indicated that the streets are adequate for the anticipated traffic and the utility lines are adequate for the proposed use.

Staff Finding – Adequate public facilities and transportation access is accommodated for this development at this time.

5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED

Staff Finding – Adequate assurances of continued maintenance are inherent in the use and the Special Use Permit approval process.

6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT

Applicant's Response:

"No, the proposed use will allow for the restoration and development of a building constructed in the late 1800s, which is a historic asset to the neighborhood and currently vacant. This will provide a significant improvement to the natural environment because there will be strict restrictions imposed on the operator by the ownership group related to upkeep, maintenance and cleanliness. It will be one of the most well maintained and managed properties in the City."

Staff Finding – The property is currently developed and has an approved site plan for changes for a Bar/Bistro use. The addition of a Bar use without the 55% food sales requirement will not impact the natural environment.

7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO, WHAT THAT TIME PERIOD SHOULD BE

This Special Use Permit is required to accommodate a specific use in this district. Standards can be applied to insure compatible development. Given the amount of investment for this use, and its ongoing nature, Staff does not recommend a time limit on the Special Use Permit.

Staff Finding – In staff's opinion, it would not be appropriate to limit the period of time the *Bar* use should be allowed by Special Use Permit based on the amount of investment involved and the ongoing nature of the use.

STAFF REVIEW

Typically, this section of the SUP staff report reviews the site plan for compliance with the Development Code. In this case, the site plan has been approved and the SUP is being requested so that site and use specific standards can be applied to the use to insure compatibility with nearby properties. As no changes are being proposed to the approved site plan, it will not be reviewed. The proposed standards should minimize any negative impact to nearby land uses by limiting the number of people who can be in the outdoor seating area, limiting the time the area is open, and limiting the time that amplified music can be played. A condition requiring the sale of food products is intended to maintain the joint restaurant/bar nature of the use, without a requirement for a specific portion of the sales to be from food. A condition which requires the tables and chairs to remain as shown on the site plan will maintain the character of the outdoor seating area. The 4 ft high railing along the 18" wall bordering the seating area will help demarcate the outdoor seating area and will prevent customers from spilling into the parking or grassed areas. The applicant found the proposed standards acceptable but had some concerns with the limitation on the hours of operation. Staff suggested the limited hours to reduce late night impact on nearby residences based in part on comments provided in public communications for the rezoning requests to permit a Bar use without the 55% Food Sales requirement.

CONCLUSION

A set of standards are proposed by staff to accommodate the proposed *Bar* use while minimizing negative impacts to nearby properties. In staff's opinion these standards would result in a compatible restaurant/bar use.

ORDINANCE NO. 9101

AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, REZONING APPROXIMATELY 0.27 ACRES FROM CS-UC (COMMERCIAL STRIP-URBAN CONSERVATION OVERLAY) DISTRICT WITH CONDITIONS TO CS-UC (COMMERCIAL STRIP-URBAN CONSERVATION OVERLAY) DISTRICT WITH REVISED CONDITIONS AND AMENDING THE CITY'S "OFFICIAL ZONING DISTRICT MAP," INCORPORATED BY REFERENCE INTO THE CITY CODE AT CHAPTER 20, ARTICLE 1, SECTION 20-108 OF THE CODE OF THE CITY OF LAWRENCE, KANSAS, 2015 EDITION, AND AMENDMENTS THERETO.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

SECTION 1. The base zoning district classification for the following legally described real property, situated in the City of Lawrence, Douglas County, Kansas, to-wit:

LOT 1 IN 8TH AND PENNSYLVANIA NEIGHBORHOOD REDEVELOPMENT ADDITION NO. 3, A MINOR SUBDIVISION REPLAT OF LOTS 1 AND 2, BLOCK 'A' OF 8TH AND PENNSYLVANIA NEIGHBORHOOD REDEVELOPMENT IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS

is hereby changed from CS-UC (Commercial Strip-Urban Conservation Overlay) District with conditions to CS-UC (Commercial Strip-Urban Conservation Overlay) District with revised conditions, as such district is defined and prescribed in Chapter 20 of the Code of the City of Lawrence, Kansas, 2015 Edition, and amendments thereto.

SECTION 2. The rezoning granted in Section 1, *supra*, in addition to being subject to the general conditions established in Chapter 20 of the Code of the City of Lawrence, Kansas, 2015 Edition, as amended, is also subject to the following special conditions:

- (a) The following uses are excluded from the zoning district described in Section 1, *supra*:
 - (i) Bar or Lounge, Nightclub, or other Licensed Premises, unless:
 - (A) 55% of gross receipts from said use are derived from the sale of food for consumption on the premises (this condition shall be applied beginning on the two-year anniversary of the commencement of the use); or
 - (B) approved as a Special Use pursuant to City of Lawrence, Kan., § 20-1306 (Jan. 1, 2015).
 - (ii) Liquor Store;
 - (iii) Ambulance Service;
 - (iv) Car or Truck Wash;
 - (v) Auto Repair;

- (vi) External drive-through ATM or drive-through window (walk-up ATM's would be allowed);
- (vii) Furriers;
- (viii) Pawn Shop;
- (ix) Mobile Home Sales and Service;
- (x) Golf Driving Range;
- (xi) Pet Store (animal sales)
- (xii) Payday Advance and Car Title Loan Businesses; and
- (xiii) Convenience Store with Gasoline Sales.

SECTION 3. The "Official Zoning District Map," which is adopted and incorporated into the City Code by reference at City of Lawrence, Kan., Code § 20-108 (January 1, 2015), is hereby amended by showing and reflecting thereon the new zoning district classification for the subject property as described in more detail in Section 1, *supra*.

SECTION 4. If any section, sentence, clause, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

SECTION 5. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED by the Governing Body of the City of Lawrence, Kansas, this 26th day of May, 2015.

APPROVED:

Jeremy Farmer
Mayor

ATTEST:

Diane Bucia
Acting City Clerk

APPROVED AS TO FORM:

Toni R. Wheeler
City Attorney

Approved and Released

Case No. 21400320

Approval Date: 7/13/14

Release Date: 7/15/14

Planner: J. L. L. L.

1 of 3 Sheets

Asst./Director: *Carly Muly*

City of Lawrence
Douglas County
PLANNING & DEVELOPMENT DIVISION

RECEIVED

JUL 14 2014

City County Planning Office
Lawrence, Kansas

8TH & PENN NEIGHBORHOOD REDEVELOPMENT ZONE

LAWRENCE, KANSAS

PARKING AND RETAIL TABULATION

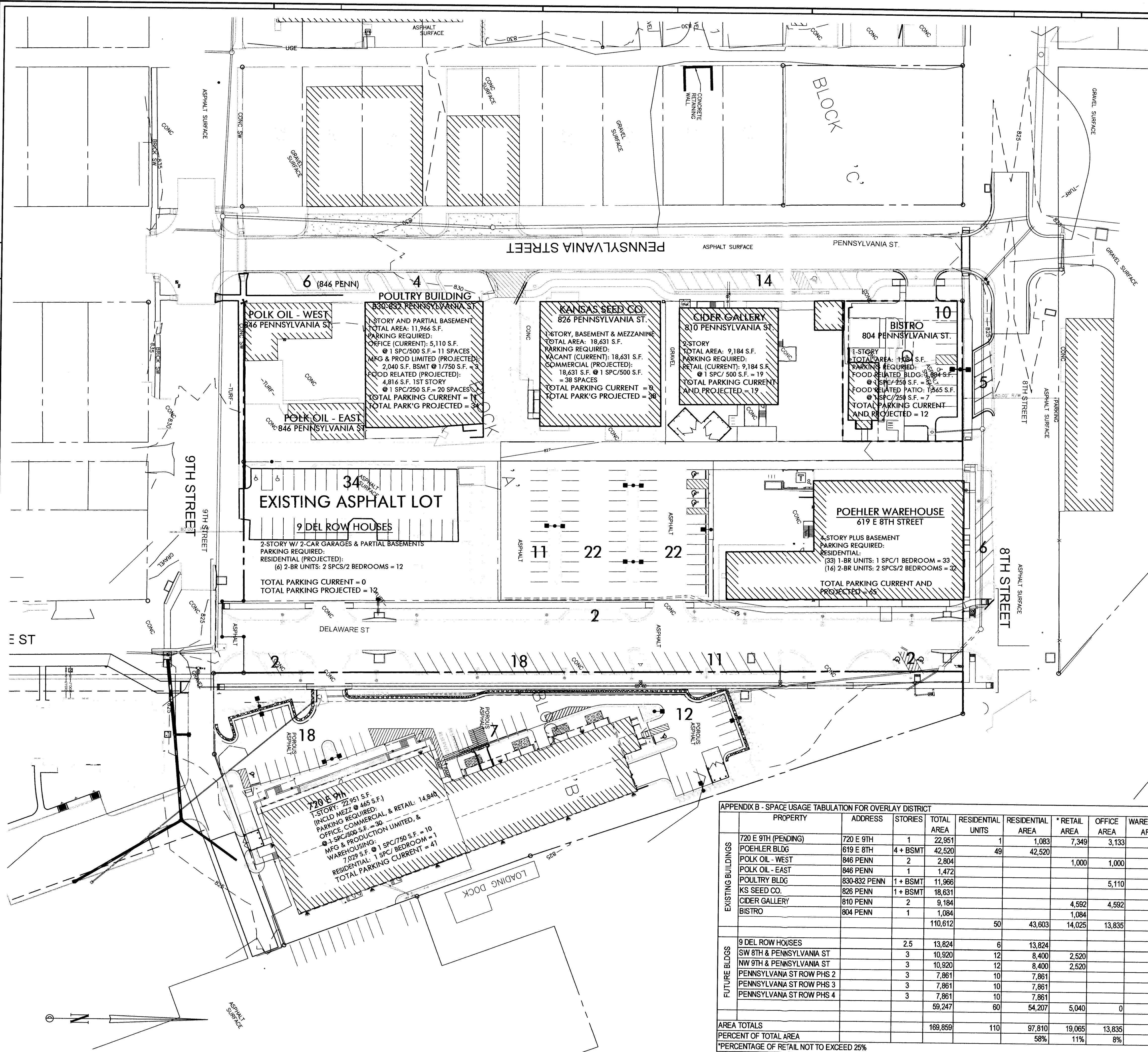
ORDINANCE NO. 8054
WHEREAS, after due and lawful notice the zoning recommendation came on for hearing before the governing body of the City of Lawrence, Douglas County, Kansas on August 8, 2006, and after due consideration and deliberation the recommended zoning change was authorized with the following list of uses excluded from this zoning change:

- (i) Bars (unless 55% of gross receipts are derived from food sales as outlined in 20-509(5)(i));
- (ii) Liquor Store;
- (iii) Ambulance Service;
- (iv) Car or Truck Wash;
- (v) Auto Repair;
- (vi) External drive-through ATM or drive-through window (walk-up ATM's are allowed);
- (vii) Furrys;
- (viii) Pawn Shop;
- (ix) Mobile Home Sales and Service;
- (x) Golf Driving Range;
- (xi) Pet Store (animal sales);
- (xii) Loan Office (short-term cash advance loans); and
- (xiii) Convenience Store with Gasoline Sales

PARKING TABULATION CURRENT	
PARKING REQUIRED	
720 E 9TH	41
POEHLER WAREHOUSE (619 E 8TH STREET):	65
POLK OIL (846 PENNSYLVANIA STREET):	NOT INCL'D
POULTRY BUILDING 830-832 PENNSYLVANIA STREET):	11
KS SEED CO. (826 PENNSYLVANIA STREET):	0
CIDER GALLERY (810 PENNSYLVANIA STREET):	19
BISTRO (804 PENNSYLVANIA STREET):	12
TOTAL PARKING REQUIRED:	140
PARKING PROVIDED	
AT 720 E 9TH	37
TEMP ASPHALT LOT BEHIND 830-832 PENN. STREET	34
SOUTH OF POEHLER WAREHOUSE	55
POLK OIL (846 PENNSYLVANIA STREET)	NOT INCL'D
BETWEEN 826 & 830-832 PENNSYLVANIA STREET	0
BEHIND 826 PENNSYLVANIA STREET	0
AT 804 PENNSYLVANIA STREET	10
ON PENNSYLVANIA STREET:	18
ON 8TH STREET	11
ON DELAWARE STREET	35
TOTAL PARKING PROVIDED:	206
(TOTAL ACCESSIBLE PARKING PROVIDED:	10

PARKING TABULATION PROJECTED	
PARKING REQUIRED	
720 E 9TH	41
9 DEL ROW HOUSES	12
POEHLER WAREHOUSE (619 E 8TH STREET):	65
POLK OIL (846 PENNSYLVANIA STREET)	NOT INCL'D
POULTRY BUILDING 830-832 PENNSYLVANIA STREET):	34
KS SEED CO. (826 PENNSYLVANIA STREET):	19
CIDER GALLERY (810 PENNSYLVANIA STREET):	38
BISTRO (804 PENNSYLVANIA STREET):	12
TOTAL PARKING REQUIRED:	221
PARKING PROVIDED	
AT 720 E 9TH	37
AT 9 DEL ROW HOUSES	12
SOUTH OF POEHLER WAREHOUSE	75
POLK OIL (846 PENNSYLVANIA STREET)	NOT INCL'D
BETWEEN 826 & 830-832 PENNSYLVANIA STREET	5
BEHIND 826 PENNSYLVANIA STREET	4
AT 804 PENNSYLVANIA STREET	10
ON PENNSYLVANIA STREET:	18
ON 8TH STREET	11
ON DELAWARE STREET	35
TOTAL PARKING PROVIDED:	207
(TOTAL ACCESSIBLE PARKING PROVIDED:	10

APPENDIX B - SPACE USAGE TABULATION FOR OVERLAY DISTRICT												
PROPERTY	ADDRESS	STORIES	TOTAL AREA	RESIDENTIAL UNITS	RESIDENTIAL AREA	*RETAIL AREA	OFFICE AREA	WAREHOUSE AREA	MFG & PROD	VACANT	TOTAL AREA	
EXISTING BUILDINGS	720 E 9TH (PENDING)	1	22,951		1,083	7,349	3,133	4,224	7,162		22,951	
	POEHLER BLDG	4 + BSMT	42,520	49	42,520						42,520	
	POLK OIL - WEST	2	2,804			1,000	1,000		804		2,804	
	POLK OIL - EAST	1	1,472						1,472		1,472	
	POULTRY BLDG	1 + BSMT	11,966				5,110			6,856	11,966	
	KS SEED CO.	1 + BSMT	18,631							18,631	18,631	
	CIDER GALLERY	2	9,184			4,592	4,592				9,184	
FUTURE BLDGS	BISTRO	1	1,084			1,084					1,084	
			110,612	50	43,603	14,025	13,835	4,224	9,438	25,487	110,612	
	9 DEL ROW HOUSES	2.5	13,824	6	13,824						13,824	
	SW 8TH & PENNSYLVANIA ST	3	10,920	12	8,400	2,520					10,920	
	NW 9TH & PENNSYLVANIA ST	3	10,920	12	8,400	2,520					10,920	
	PENNSYLVANIA ST ROW PHS 2	3	7,861	10	7,861						7,861	
	PENNSYLVANIA ST ROW PHS 3	3	7,861	10	7,861						7,861	
AREA TOTALS			169,859	110	97,810	19,065	13,835	4,224	9,438	25,487	169,859	
PERCENT OF TOTAL AREA					58%	11%	8%	2%	6%	15%	100%	
*PERCENTAGE OF RETAIL NOT TO EXCEED 25%												



Hernly ASSOCIATES

920 Massachusetts
Lawrence, Kansas
66044
785 - 749 - 5806
FAX 785 - 749 - 1515

SITE LAYOUT

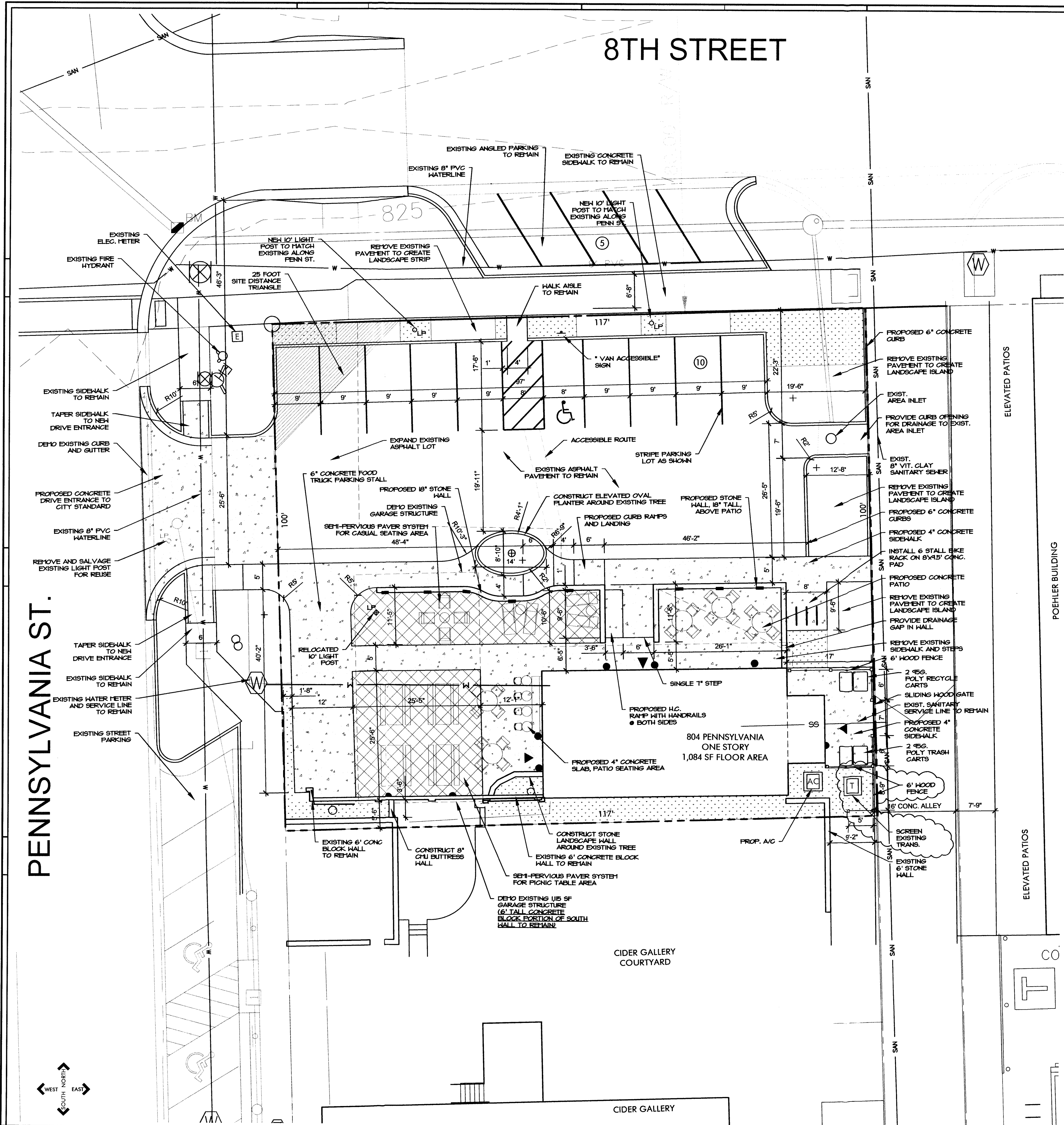
Date: 2014/07/14

Drawn by:

Checked by:

Revisions:

SP-1



PROJECT DESCRIPTION:

Building remodel and site modifications for food and beverage sales use - Fast Order Food with Accessory Bar. This project is intended to provide minor modification and additional detail to SP-13-00349 as previously submitted.

PROPERTY OWNER:
Ohio Mortgage Investors, LLC
13420 Santa Fe Trail Dr.
Lenexa, KS 66215-3655

ARCHITECT:

Hernly Associates, Inc.
920 Massachusetts St. Suite 2
Lawrence, KS 66044-2868

LEGAL DESCRIPTION:

Lot 1, 8th and Pennsylvania Neighborhood Redevelopment Addition No. 3, City of Lawrence, Douglas County, Kansas.

ZONING:

CS - UC (COMMERCIAL STRIP-URBAN CONSERVATION OVERLAY) ORDINANCE NO. 8920 - Permitted/Excluded Uses:
The zoning granted in Section 1, supra, in addition to being subject to the general conditions established in Chapter 20 of the Code of the City of Lawrence, Kansas, 2013 Edition, as amended, is also subject to the following special condition:
(a) The following uses are excluded from the zoning district described in Section 1, supra:
(i) Bars (unless, within a calendar year, 55% of gross receipts from said use are derived from the sale of food for consumption on the premises; said restriction shall be applied beginning on the two-year anniversary of the commencement of the use);
(ii) Liquor Store;
(iii) Ambulance Service;
(iv) Car or Truck Wash;
(v) Auto Repair;
(vi) External drive-through ATM or drive-through window (walk-up ATM's are allowed);
(vii) Furriers;
(viii) Pawn Shop;
(ix) Mobile Home Sales and Service;
(x) Golf Driving Range;
(xi) Pet Store (animal sales);
(xii) Loan Office (short-term cash advance loans); and
(xiii) Convenience Store with Gasoline Sales

USE GROUP:

Previously Approved Use: Quality Restaurant/Bar
Proposed Use: Fast Order Food/Bar

Note: The Mobile Food Vendor is governed by the regulations in Section 6-17 of the City Code.

OUTDOOR DINING:

Per City Code Section 9-902, the outdoor dining area will be managed to prevent stormwater pollution. Food waste, trash, cigarettes and other solid wastes will be collected and disposed of properly. Collection must be frequent enough to prevent wastes carried off by wind or stormwater runoff. Pavement and furnishings must be cleaned frequently enough to prevent contamination of stormwater runoff. Fluid waste, including wastewater from pavement or furniture cleaning, will be collected and discharged to the sanitary sewer system."

LIGHTING

KEY	QUAN	NOTES
DECORATIVE STREET LIGHT	3	RELOCATED AND NEW MATCH EXIST. 3" DIA. x 10' POLE
INSET STEP LIGHT	8	9 WATT CF CONCEALED CONDUIT, INSET LIGHTS
DECORATIVE WALL SCENCE	3	16.8 WATT LED LAMP, SURFACE MOUNTED CONDUIT ON CMU WALL ONLY
DECORATIVE WALL SCENCE	5	16.8 WATT LED, SURFACE MOUNTED CONDUIT ON CMU WALL ONLY

REFUSE DISPOSAL

The business practices will include a high level of recycling and composting. Refuse will be handled utilizing (2) 95 gal. poly trash carts. Recycling will be handled with an additional (2) 95 gal. poly trash carts. Composting will be collected indoors and taken as needed to an off-site composting area.

HRC DETERMINATION

The Lawrence Historic Resources Commission at their meeting on June 19, 2014 approved the site plan with the following amendments:
• Any changes to the approved project will be submitted to the Historic Resources Administrator prior to the commencement of any related work.
• The site plan process (Development Code 20-1305) for the removal of the garage and replacement with outdoor dining is completed prior to the installation of the outdoor dining.
• The demolition permit may be released for permitting prior to the release of the site plan.

PROPERTY SURFACE SUMMARY

EXISTING SUMMARY	SUMMARY AFTER PROJECT COMPLETION
TOTAL BUILDINGS = 2,417 S.F.	TOTAL BUILDINGS = 1,302 S.F.
TOTAL PAVEMENT = 7,125 S.F.	TOTAL PAVEMENT = 8,440 S.F.
TOTAL IMPERVIOUS = 9,542 S.F.	TOTAL IMPERVIOUS = 9,742 S.F.
TOTAL PERVIOUS = 2,176 S.F.	TOTAL PERVIOUS = 1,976 S.F.
TOTAL PROPERTY AREA = 11,718 S.F.	TOTAL PROPERTY AREA = 11,718 S.F.

PARKING REQUIREMENTS: (based on area plan)

1 STALL FOR 250 SF OF BUILDING AREA FOR FOOD RELATED USES
BUILDING FLOOR AREA: 1,084 SF/250 = 5 STALLS REQUIRED
OUTSIDE DINING AREA: 1565 SF/250 = 7 STALLS REQUIRED
TOTAL REQUIRED: = 12 SPACES (INCL. 1 VAN ACCESSIBLE)
PARKING AVAILABLE: = 10 ON SITE (INCL. 1 VAN ACCESSIBLE) + 2 ADJACENT STREET
Bike Parking = (6) spaces provided

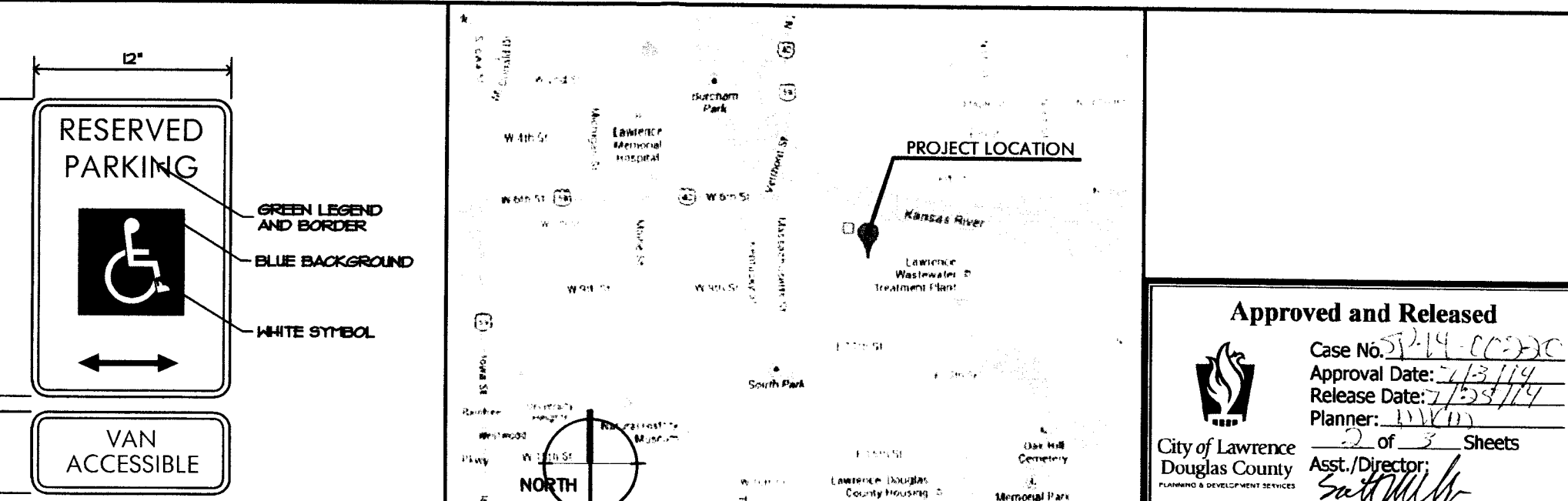
ADA NOTE

This site plan has been designed within reasonable professional efforts to comply with the provisions of The Americans With Disabilities Act Accessibility Guidelines (ADAAG) for Buildings and Facilities, Appendix A to 28 CFR Part 36. No warranty is given that this site complies with all interpretations of said provisions.

SITE NOTES



ELEVATIONS



PARKING SIGN

LOCATION MAP

PENN STREET BISTRO
804 PENNSYLVANIA
LAWRENCE, KANSAS

RECEIVED
JUL 25 2014
City Planning Office
Lawrence, Kansas

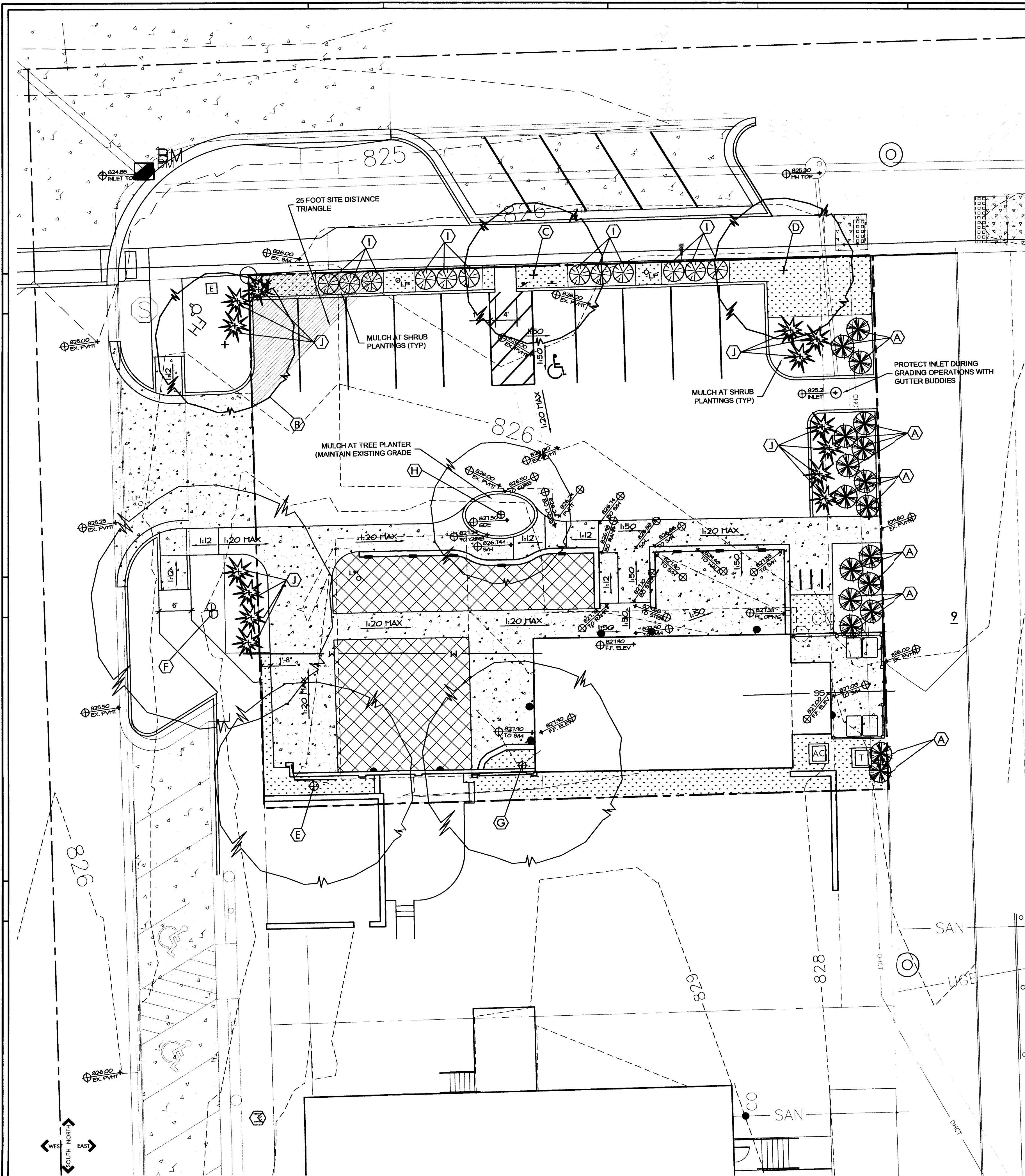
Hernly
ASSOCIATES

920 Massachusetts
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FAX 785-749-1515

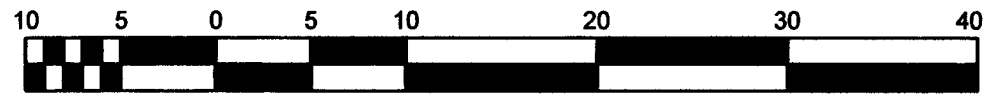
SITE LAYOUT

Date: 2014/05/20
Drawn by:
Checked by:
Revisions: 2014/06/20
2014/07/01
2014/07/25

SP-2



1 SITE GRADING AND LANDSCAPE PLAN
1" = 10'-0"



BENCHMARK:
Site grading is based on and tied to NGS benchmark T 368:
A stainless steel rod in hand hole located 190.9' north of the centerline of East 13th Street and 23.6' east of the centerline of Oregon Street. Elevation is 827.39' (NAVD 88).
Local Benchmark: Storm sewer inlet at southeast corner of 8th and Pennsylvania - Top Elevation 824.88'

GENERAL NOTES:

- Contractor to verify location of all existing utilities prior to excavation.
- Pavement slopes in area of handicap accessible parking stalls and access aisles shall conform to current ADA requirements and shall not exceed 2% in any direction.
- The contractor is responsible for providing berms, silt fences, straw bales, or other means to prevent erosion from reaching adjacent property or the public right-of-way. In the event the prevention measures are not effective, the contractor shall remove any erosion debris and restore adjacent property and/or the right-of-way to original or better condition.
- All disturbed areas shall be seeded and mulched or sodded.

CAUTION - NOTICE TO CONTRACTOR:

The contractor is specifically cautioned that the location and/or elevation of existing utilities as shown on these plans is based on records of the various utility companies and, where possible, measurements taken in the field. The information is not to be relied on as being exact or complete. The contractor must call the appropriate utility company at least 48 hours before any excavation to request exact field location of utilities. It shall be the responsibility of the contractor to relocate all existing utilities which conflict with proposed improvements shown on the plans. THE CONTRACTOR SHALL EXPOSE EXISTING UTILITIES AT LOCATIONS OF POSSIBLE CONFLICTS PRIOR TO ANY CONSTRUCTION.

EROSION CONTROL NOTES:

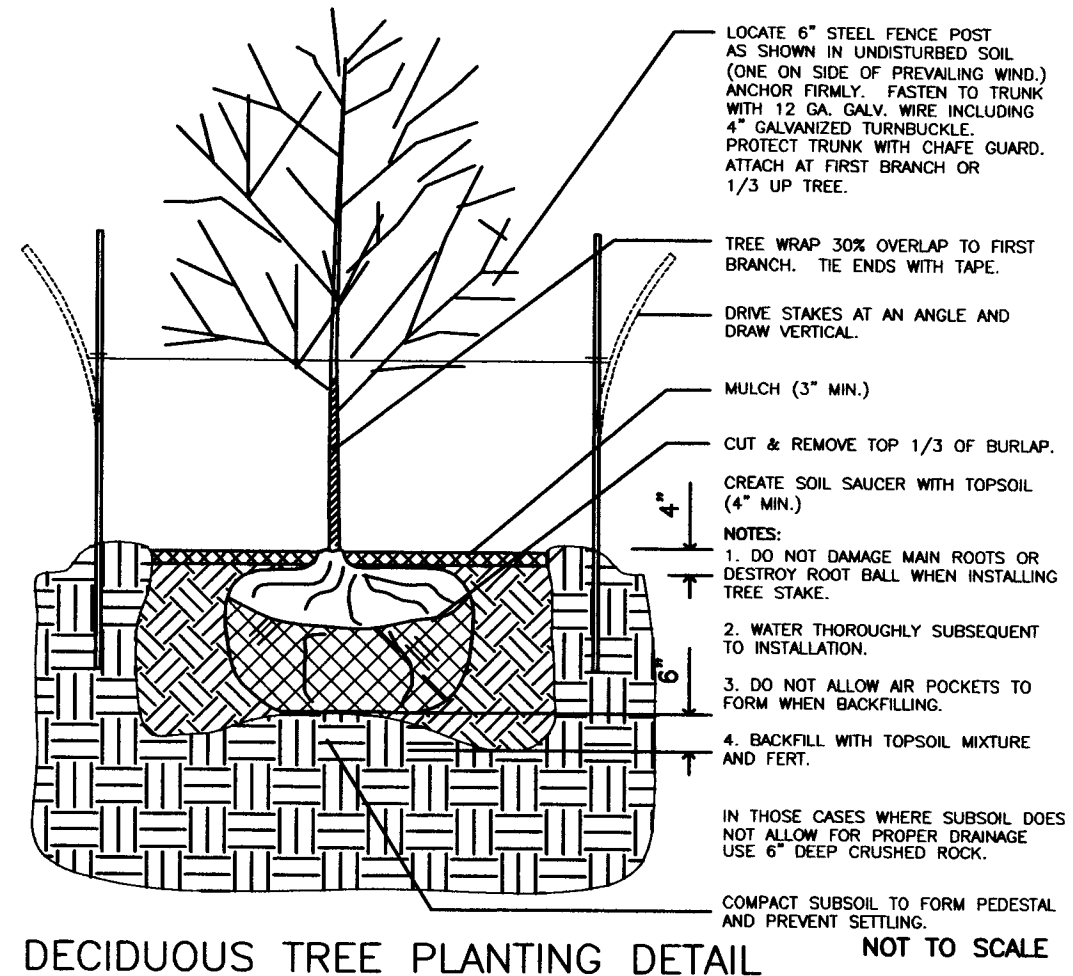
- All perimeter sediment and erosion control facilities are to be constructed prior to grading and they shall be in operational condition before grading construction begins. All sediment control measures are to be adjusted to meet field conditions at the time of construction.
- Periodic inspection and maintenance of all sediment control structures must be provided to insure intended purpose is accomplished. The contractor shall insure that adjacent land area shall be protected from erosion and sediment. Sediment control measures shall be in working condition at the end of each day.
- All areas of ingress-egress are to be protected to prevent the tracking of mud onto the public right-of-way.
- Remove good topsoil from areas to be graded and filled, and preserve it for use in finishing the grading of all critical areas.
- Clear and grub areas to be filled to remove trees, vegetation, roots or other objectionable material that would affect the planned stability of the fill.
- Scarify areas to be topsoiled to a minimum depth of 2 inches before placing topsoil.
- The throats of all storm sewer inlets shall be protected and kept free of any deposits of sediment until the uphill areas have been stabilized and the streets have been paved.
- Contractor shall use silt fence as required for controlling erosion along the edge of the property or other bottom of slope locations in order to confine runoff on site.

GRADING NOTES

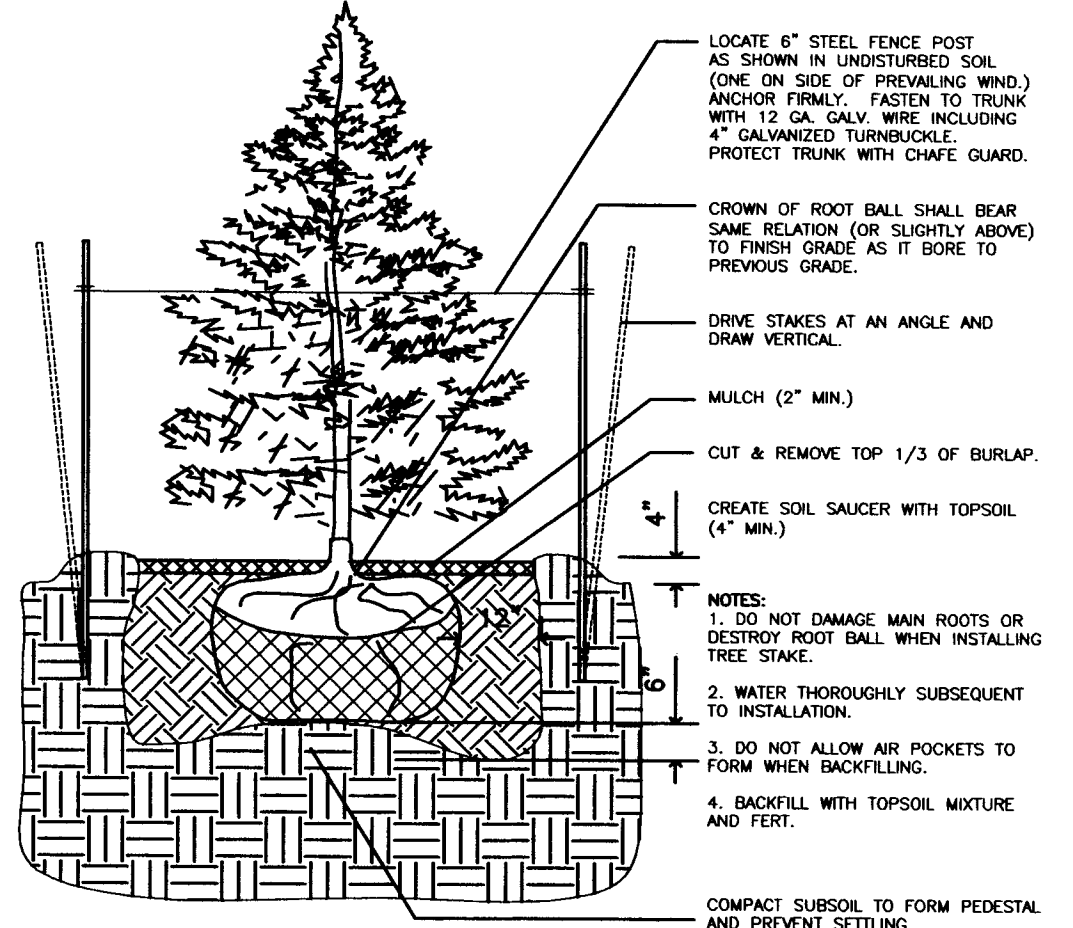
- Set all plants a minimum of 4 feet from back of curb.
- Tree and shrub species are to be as chosen by landscape contractor and owner from the acceptable species noted in this concept plan.
- All previous land areas not noted to be mulched shall be brought to finished grade and planted in Turf-type Fescue.
- All ground mounted mechanical or utility equipment shall be screened from public view with landscape materials compatible with this landscaping concept plan.
- All above ground electrical and/or telephone cabinets shall be screened with landscape materials.
- All landscape materials shall be installed in accordance with the 2004 or 20012 ANSI standards for tree planting.
- All disturbed land areas not otherwise landscaped shall be sodded.
- No grading or trenching shall occur within 4 ft of the base of trees that are being preserved.
- The property owner will maintain the shrubs in the intersection visibility triangle and the adjacent right-of-way at a height of 3 ft or less.

LANDSCAPING				
KEY	NAME	QUAN	SIZE	COND. NOTES
(A)	Taylor Juniper Juniperus virginiana 'Taylor'	18	7" HEIGHT	B&B Proposed
(B)	Ginkgo 'Autumn Gold' Ginkgo biloba	1	2" CAL.	B&B Proposed
(C)	John Pair Caddo Maple Acer saccharum 'John Pair'	1	2.5" CAL.	B&B Proposed
(D)	Skyline Honey Locust Gleditsia triacanthos var. inermis 'Skyline'	1	2.5" CAL.	B&B Proposed
(E)	Eastern Black Walnut Juglans nigra	1	18" CAL.	Good Existing
(F)	American Elm Ulmus 'americana'	1	20" CAL.	Good Existing (dbl. trunk)
(G)	American Elm Ulmus 'americana'	1	20" CAL.	Good Existing
(H)	Crabapple Malus HV	1	16" CAL.	Good Existing
(I)	Barberry, Redleaf Japanese Berberis thunbergii HV	12	24" Ht. min potted	Proposed
(J)	Euonymus, Dwarf Winged Euonymus alatus HV	14	24" Ht. min potted	Proposed

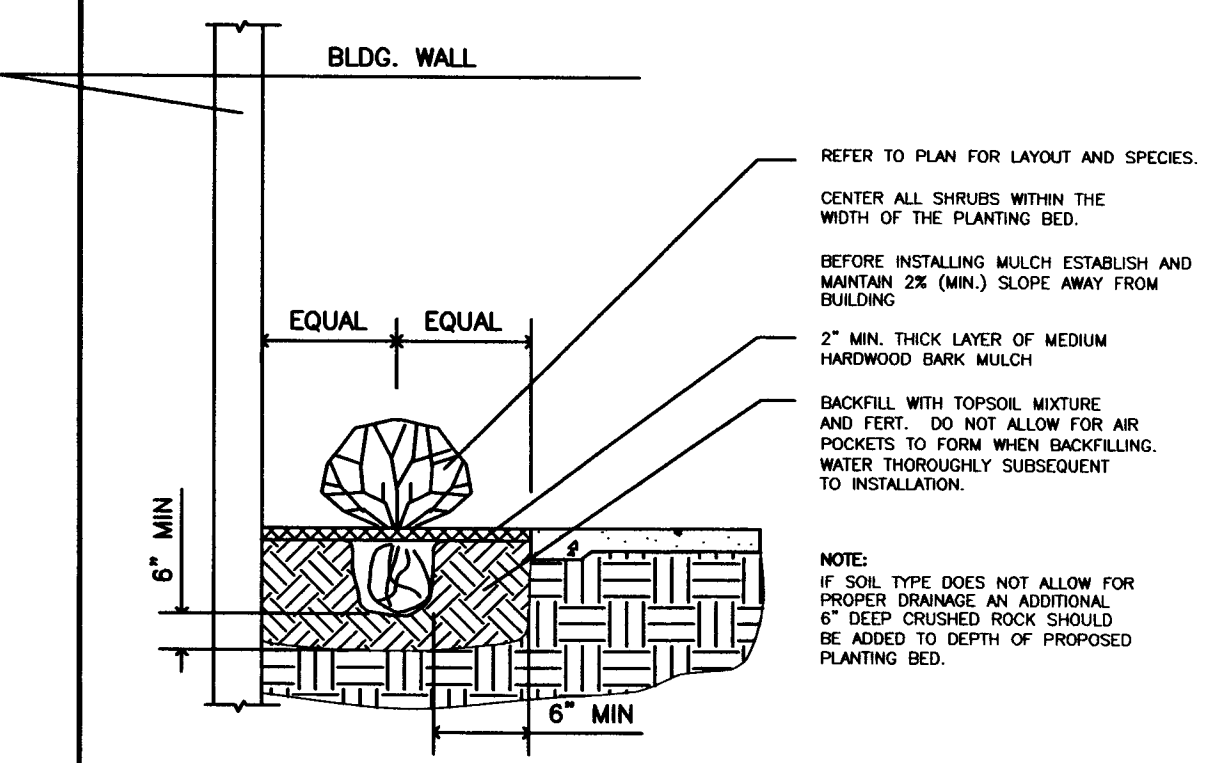
LANDSCAPE NOTES



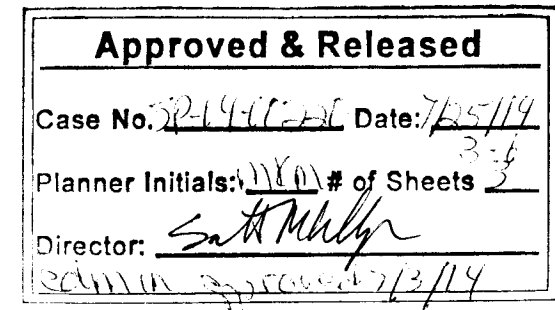
DECIDUOUS TREE PLANTING DETAIL



EVERGREEN TREE PLANTING DETAIL



SHRUB PLANTING AT BUILDING



PLANTING DETAILS

PENN STREET BISTRO
804 PENNSYLVANIA
LAWRENCE, KANSAS

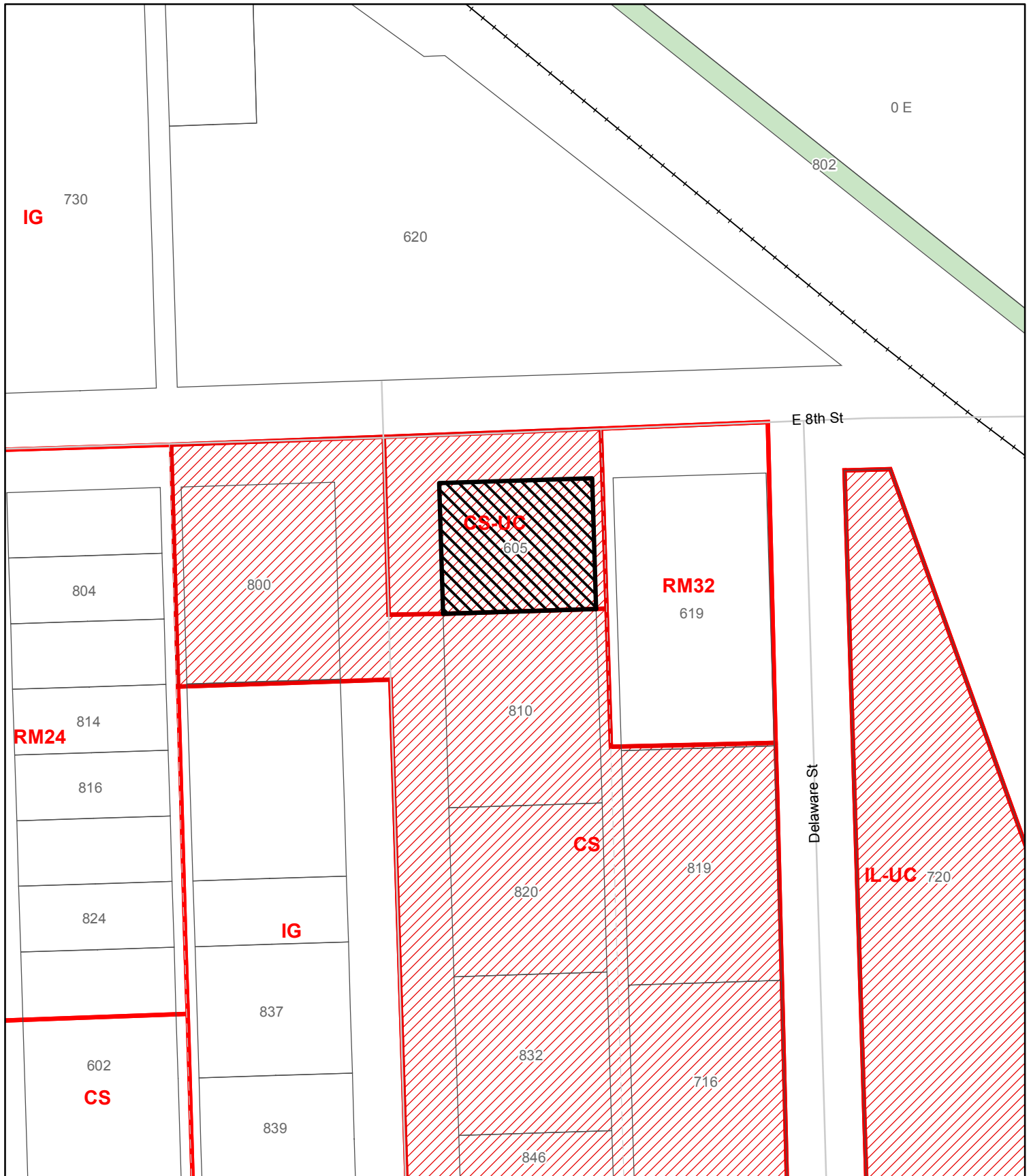
Hernly
ASSOCIATES

920 Massachusetts
Lawrence, Kansas
66044
785-749-5806
FAX 785-749-1515

LANDSCAPE & GRADING

Date: 2014/05/20
Drawn by:
Checked by:
Revisions: 2014/06/20

SP-3



**SUP-15-00261: Special Use Permit for a Bar to be
Located at 804 Pennsylvania Street**



RECEIVED

JUL 10 2015

City County Planning Office
Lawrence, Kansas

July 10 2015

I would like to object to the 804 Penn. St
Special Use permit for the request for
live music 7 days a week.

Please take into consideration the
families living on New Jersey St.
there is a family with a newborn,
a young couple with 2 school age
children, an older woman caring for
her even older sister with dementia,
several students with early classes,
and people with jobs that need their
sleep. live music a half a block
away would be very unsettling.

I do not live on New Jersey St. I have
lived in the 800 block of New York St
for 25 YRS and I know most of the
folks who live on New Jersey St and
I felt I needed to speak up for
the unhardened City Commission goes
the un computer users and those who
are not sure how to voice their concerns
in writing

So please take us neighbors into
consideration when considering this special
use permit for live music.

Thank you
Cynthia Trask ozdog@sunflower.com

P.S. Personally I am against having this bar
in our neighborhood at all

From: "Tom Larkin" <tlarkin@flinthillsholdings.com>

To: "amalia.graham@gmail.com" <amalia.graham@gmail.com>, "pkelly@usd497.org" <pkelly@usd497.org>, "julia.v.butler@gmail.com" <julia.v.butler@gmail.com>, "bcculver@gmail.com" <bcculver@gmail.com>, "robert.c.sands@gmail.com" <robert.c.sands@gmail.com>, "denney1@sunflower.com" <denney1@sunflower.com>, "squampva@aol.com" <squampva@aol.com>, "clay.britton@yahoo.com" <clay.britton@yahoo.com>, "bruce@kansascitysailing.com" <bruce@kansascitysailing.com>, "eric.c.struckhoff@gmail.com" <eric.c.struckhoff@gmail.com>

Cc: "Mary Miller" <mmiller@lawrenceks.org>, "Scott McCullough" <smccullough@lawrenceks.org>

Subject: 804 Penn Bistro Special Use Permit

Date: Tue, Jul 21, 2015 10:24 pm

Commissioners,

Please see attachment with detail as to the Special Use Permit Request for the property at 804 Penn St. Please note, that The Planning office and I have worked for many weeks drafting a document that would address all concerns. Theirs has been submitted to you as the staff recommendation. The main sticking point, as you will see in the document is the hours of operation restriction we have omitted. I wanted to reiterate our issues with restricting the hours separate from the attachment for clarity's sake.

Please note that every operator we have approached that has been interested in operating the Bistro has been adamant that no hours restriction take place for two main reasons:

1) The Fire Department lists the indoor occupancy for the Bistro building at 44 persons. In Kansas, much of the year people do not want to be outside, so the operator is limited to a maximum of 44 people to serve at one time. Restricting the hours on top of this seemed too much when forecasting cashflow to all potential owners. The patio helps during the warmer seasons, however many students are still out of town. We do not intend to target students in our marketing, but they are still a part of the local economy. Keeping the hours the same as competing establishments is important to involved.

2) Many people that live and work in the Warehouse Arts District work in the service industry as waiters, bartenders or similar. These shifts often go until 11pm or later, and business hours need to accommodate this reality. A business in the Warehouse Arts District that cannot serve those in the Warehouse Arts District has no chance of surviving.

I think all are in agreement with the other five conditions. I think it does a great job of addressing issues with food sales, noise, clientele and precedent.

I am hopeful the summary of the process to date and an explanation of how we came to our request will help simplify this complex project. We have a number of operators ready for business, but they did not want to agree with so many of these variable up in the air over the past few years. Hopefully, our terms in the attachment will be agreeable for your Commission so we can file for our building permit and break ground.

Thank you very much for your time.

Tom Larkin

Flint Hills Holdings, LLC

832 Pennsylvania Street

Lawrence, KS 66044

c: 785.766.9230

Tom Larkin
Flint Hills Development Group, LLC
on behalf of Ohio Mortgage Investors, LLC
832 Pennsylvania St.
Lawrence, KS 66044

Re: 804 Penn St. Bistro Special Use Permit

Commissioners,

This project has been stagnant for two years now, and this will mark the third time that we have been before you. Due to the evolution of this project over time, I think a little background summary is necessary.

In 2007, the previous ownership group of many buildings located in what is now known as the Warehouse Arts District (8th St. to 9th St. and Delaware St. to Pennsylvania St., generally), led by Bo Harris, agreed to placing the 55% restriction for food sales on this block. This restriction was historically only used in downtown Lawrence. The restriction kept the downtown from becoming a bar district, and in that capacity, was effective. However, 50% of the current liquor licenses issued within downtown are to establishments that were grandfathered into this ordinance, and therefore, do not have to abide by the restriction. The property at 804 Pennsylvania Street was within the block that was subject to the 55% restriction. This owner was unsuccessful in redeveloping the historically rich but physically decaying district.

Fast forward to 2013, the properties in the Warehouse Arts District are largely under new ownership. Two years ago the current property owner at 804 Penn approached the Commission to request a rezoning that would remove the 55% restriction. This would be the third redevelopment in the area by the same ownership group that won national awards for the Poehler Lofts and the Cider Gallery as exemplary historic renovation developments.

The decision came down to two options based upon the neighborhood's feedback and the commission's suggestions:

1. Place substantial hours restrictions on the business owner
2. Extend the 55% sales reporting term to two years instead of one

The latter was chosen as we felt we could attract an operator that would be able to meet this threshold after two years. We still have not found an operator to agree to the terms despite interest in this concept from ten plus individuals because the food sales number was not achievable.

Because of this, we approached the city about allowing food trucks to serve on site, and to count their gross sales toward the 55% benchmark. The city agreed, but only if we did so through the proper channels and modified the Lawrence mobile food vendor code and ordinances to allow them to remain on site more than 3 hours. In 2014, we completed the due process to change these ordinances.

Unfortunately, potentially owners still backed out after hearing of the restrictions (see exhibit A)

Fast forward to 2015. We presented you with a request to fully rezone the property in March of this year. Prior to that meeting we did our due diligence for this effort and met with neighbors, business owners, nearby homeowners, board members of ELNA, Poehler residents and office tenants and property owners in the area to get some feedback as to our plan to apply for the removal of the 55% restriction through a rezoning. Questions arose of noise, activity, demographics of those served and marketed to and the precedent this project would set. I met with ELNA, business owners and property owners, listened to concerns and tried to address as many as I could before ever going before the commission. As an example, prior to any municipal mandate, we:

1. Scaled down the patio in square footage and occupancy
2. Eliminated alley access to vehicles completely
3. Created a singular Penn St. entrance to the parking lot
4. Added a significant landscape buffer between Poehler and the Bistro
5. Agreed to limit amplified outdoor live music past 11pm.

Additionally, we reached out to local businesses to see if they would partner with us on this project to help sell products to invoke the neighborhood feel and drive sales that were non-alcoholic in nature. Businesses such as Kanbucha, Optimal Living, Lucky Dog Outfitters and Centro Cigars along with Food Truck letters of intent from Wilma's, Drasko's and Torched Goodness (see exhibits B-F) were sent back to us quickly as a show of support. We want this to be a place where people bring kids for a weekend beverage or dogs to relax on the patio. These partners will help us to create this atmosphere and attract the clientele from the neighborhood.

Additionally, the local support was evidenced during the meeting and in correspondence as well. There was a comment made at our meeting that some of you were surprised that not as many neighborhood residents were there. There were many there in support of the project, however. The letters of support from Poehler residents and nearby business owners were evidence as well. This was something that a large contingency that are directly impacted by the Bistro want and still want. In the City Commission meeting, one commissioner commented that he received 18 emails in favor of this rezoning prior to the

meeting and only three dissenting. The support is and will continue to be present for this project.

Finally, we explained that the biggest concern we kept hearing from the neighborhood was that this was going to be a disruptive, obnoxious bar that everyone would end up opposing. The same ownership group owns the property immediately adjacent to the Bistro—the Poehler Lofts at 619 E. 8th St. and the Cider Gallery at 810 Pennsylvania St. Combined between those properties are 74,000 total square feet and a total investment of \$11.3M owned and managed by the same group. This Bistro is an amenity in the neighborhood but not a financial anchor. If word were given that the Bistro was deterring brides from wanting to get married at Cider due to noise or causing residents to move out of Poehler due to disruption then immediate action would take place by the ownership. There is no question that we have the most to lose of anyone if the Bistro ever became too loud or disruptive.

The site plan has been approved for nearly a year now, and the concept has not changed in that span aside from adding food trucks to the operations. Still, we have yet to attract an operator due to the code restrictions on the property.

As for this application, we are requesting a Special Use Permit for this property.

Things that will stay the same from the last rezoning effort through this SUP request:

1. The overall concept will stay exactly the same
2. Food will remain a crucial part of the business plan
3. All previous partnership intent remains intact (Lucky Dog, Kanbucha, etc..)
4. Food trucks will remain a staple of this concept and we seek to support them all hours of operations if the demand is there.
5. We will continue to try to attract, families, kids, dogs, etc to keep this a local, neighborhood establishment that is tailored to that clientele

After the meeting with the Commission in March, I immediately met again with neighbors and business owners to hear some suggestions for the concessions to be included in the SUP. I emailed numerous times and met in person with Scott McCullough and other city staff to see their draft of the conditions they felt would satisfy all involved. Their list was sent as the staff recommendation that you all have seen in your packet.

I presented the concessions to ELNA, and explained that the City drafted these conditions, not the ownership. They were slightly modified after I met with the City numerous times but the meat is the same. I was hopeful that ELNA be supportive of our document and sign off on the conditions, but your letter from ELNA shows they are opposed to this effort in its entirety. However, the emails

and letters of support show that the entire neighborhood does not agree with the ELNA board. I believe the correspondence shows many in favor as well.

Here are the conditions we as owners would like to see for this Special Use Permit:

1. Occupancy. No more than 75 persons may be within the outside dining area at any one time. The interior of the building is limited to no more than 44 persons.

2. The number of tables and chairs, as shown on the approved site plan, shall be provided to patrons during all hours that the outside dining area is open, including during Temporary Special Events.

3. Amplified live music on the outside dining area shall cease at 10pm Sunday through Thursday and at 11pm Friday and Saturday. Other music (live acoustical and digital or stereo sources) shall be kept at an ambient level after those times.

4. Requirements to provide food:

*a. Food shall be available for purchase at **all times** the establishment is open. The food may be provided within the building and/or by food trucks on site.*

b. The food shall consist of menu items more substantial in nature than the typical nuts and/or popcorn offered at bars, yet affordable options should be provided. Items such as pastries, breakfast foods, sandwiches and sides, or meals will meet the intent of this requirement.

5. Based on the information from ABC representative, a railing or barrier should be installed along the 18" wall around the dining area to clearly demarcate the area and prevent patrons from spilling over into the parking area (It should be noted that any barrier design is subject to SHPO and NPS approval).

The one point that the City and the ownership disagree upon is the restriction of hours, as omitted above. We have made it clear the type of business we will ensure opens in the Bistro and the market it intends to serve. The reason the hours restriction will not work is for two reasons that cannot be ignored as a business owner. One, the interior occupancy in this building is only 44 as per the Lawrence Fire Department. In Kansas, much of the year outdoor patios are obsolete due to Mother Nature, so it must be acknowledged that much of the year you are very limited in number of customers you can serve. This condition is restrictive enough and limiting the hours to less than those of competing establishments in town will make this business unsustainable before it starts. Secondly, this business is in the middle of the Warehouse Arts District, and many of those that live and work here are employed in the service industry that

requires them to work until 11pm or later. For this business to survive in the Warehouse Arts District it needs to serve all in the Warehouse Arts District and this has been consistent with everyone that has discussed operating the Bistro. There has not been a single operator that has been open to restricting hours due to location. We have yet to identify another SUP that restricts hours to handicap that business from competing with others in town. It is for this reason, I believe if a hours restriction becomes a requirement by the Planning Commission or the City Commission we do not believe we can pursue the SUP any further.

We have worked closely with every interested group to come to this point in the process. We feel the above conditions are more than fair and provide a layer of protection for those concerned about this in the neighborhood while still providing a framework in which an operator can run a successful business. Please consider the ownership's side and the length we have gone to get the neighborhood to sign off on this business. We are convinced, that once opened, those that may have been opposed will be please with the product and even chose to visit it on occasion.

Thank you for your time.

Best,

A handwritten signature in blue ink, appearing to read 'Tom Larkin', with a stylized, cursive script.

Tom Larkin



Tom Larkin <tlarkin@flinthillsholdings.com>

Fwd: 804 PENN

Tony Krsnich <tony@flinthillsholdings.com>
To: Tom Larkin <tlarkin@flinthillsholdings.com>

Wed, Apr 29, 2015 at 2:42 PM

Please note my new email address:
tony@flinthillsholdings.com

Sent from my iPhone

Begin forwarded message:

From: [REDACTED] <[REDACTED]785@gmail.com>
Date: November 5, 2014 at 9:31:46 AM CST
To: Tony Krsnich <tonyk@landmarkigllc.com>
Subject: 804 PENN

Hi Tony,

I hope all is well with you. After deeply considering the proposed lease to open a bar/bistro in 804 Pennsylvania I'm afraid I can't make it work. The zoning restrictions as well as my own financial risk make this unattractive.

I appreciate what you are doing in East Lawrence and wish you all the best. I hope we can work together in some capacity in the near future.

Sincerely,

[REDACTED]

EXHIBIT A



KANbucha
126 Indian Avenue
Lawrence, KS 66046

To Whom It May Concern:

In regard to Tom Larkin's request to open retail space in the East Lawrence neighborhood area, Kanbucha supports the removal of the 55% restriction. We understand that operating a small business is difficult enough, and adding extra reporting requirements will not help to facilitate sales, but in fact, will help deter due to the reporting procedures. Additionally, We have an agreement with the owners to sell our product on the 804 Penn St. premises for, at minimum, the next 5 years, should the project be approved.

We appreciate your time in considering this matter.

Thank you,

Elliot Pees
Owner
KANbucha

EXHIBIT B



519 Ames Street
Baldwin City, KS 66006
Phone: 785-331-5290
Email: optimalliving13@gmail.com
Website: WWW.OLMEALS.COM

To Whom It May Concern:

Optimal Living has entered an agreement with the owners of 804 Pennsylvania to have a pick up location for our food for a minimum of the next 5 years.

Sincerely,

Jeremy Rodrock, Owner

EXHIBIT C

Lucky Dog Outfitters
1027 Massachusetts
1411 W 23rd St Suite B
Lawrence, KS
785-550-0926
785-371-6476



May 11, 2015

To Whom It May Concern:

I am writing this letter in support of The Bistro, 804 Pennsylvania. I encourage a change to the 55% non-alcohol sales percentage so that they may offer alcoholic beverages at this location, as well as food and other locally made goods.

Additionally, we are hoping to develop a partnership for the term of 5 years with The Bistro to offer our dog bakery treats on their patio.

Sincerely,

A handwritten signature in blue ink, reading "Jennifer Ybarra", is written over the printed name.

Jennifer Ybarra

Co-Owner

Lucky Dog Outfitters

EXHIBIT D

Draskos LLC
2349 Haversham Drive
(913) 205-3345
jaydrask@yahoo.com



MAY 12, 2015

City of Lawrence Commissioner's
City Hall
P O Box 708
Lawrence, KS 66044

Dear Sirs and Madam,

This letter is in reference to City Ordinance 8054 in concern to the proposed establishment of The Bistro at 804 Pennsylvania.

Drasko's Food Truck & Catering fully supports the removal of the 55% requirement of Ordinance 8054. Running a small business is difficult enough without having to increase our reporting requirements, unnecessarily. The removal of the 55% through rezoning will allow for us to operate more effectively and efficiently

We currently have an agreement with the ownership Bistro to be on site at least one day a week for the next 5 years, with every intention of renewing this as long as it's in business.

With warm regards,

Jay Draskovich

Richard Draskovich

EXHIBIT E



Eric Ireland • Chef Owner
Julia Ireland • Owner

480.296.1609 • torchedgoodness@gmail.com
1234 Bluestem Drive, Eudora, KS 66025

May 11, 2015

To Whom It May Concern;

I own a gourmet food truck in Lawrence and am writing in regards to the Bistro in the Warehouse Arts District. I have had numerous meetings and conversations with the building operator and have agreed to have my food truck at the Bistro for a minimum of one day per week for the next five years. I expect this partnership to last longer than that and hope to be able to increase my days per week.

My concern is the 55% restriction and I support having that lifted. Without that restriction in place I would be able to operate more effectively. In addition, I do not welcome more reporting and paperwork as it takes away from my time to actually work in my food truck and generate income.

It's my belief that this will be a win win for both sides. I expect the alcohol and beverage sales to help my food sale revenue and vice versa. This way customers can stay at the location longer and enjoy both food and drinks.

Another benefit being offered to me from the building operator is the ability to plug into both a power and water supply. This also cuts down my overhead by not having to run my generator.

Thank you in advance for your consideration.

Sincerely,

Julia Ireland
Torched Goodness
785.766.2287
torchedgoodness@gmail.com

EXHIBIT F

From: Jacqueline Putman [<mailto:jputman@flinthillsmgmt.com>]

Sent: Tuesday, July 21, 2015 5:35 PM

To: Robert.c.sands@gmail.com; bcculver@gmail.com; julia.v.butler@gmail.com; pkelly@usd497.org; amalia.graham@gmail.com; denney1@sunflower.com; squampva@aol.com; clay.britton@yahoo.com; bruce@kansascitysailing.com; eric.c.struckhoff@gmail.com; Mary Miller; Scott McCullough

Subject: Cider Gallery and Poehler Lofts

Commissioners,

Please see the attached letter regarding the suspected noise complaints from the Poehler Loft residents concerning the Cider Gallery at 810 Pennsylvania Street. My management team has researched current resident files as well as past resident files in search of any documented noise complaints regarding the Cider Gallery, and **zero** complaints were found.

As the letter will explain, we are required to keep resident files and all notices, including complaints for up to 7 years. My management team at the Poehler Lofts has never received a verbal or documented noise complaint from the Cider Gallery or any neighboring businesses.

Thank you for your time and attention! Let me know if you have any questions at all.

Jacqueline Putman
Vice President of Property Management
Flint Hills Management Group



832 Pennsylvania Street
Lawrence, KS 66044

PH: 785-550-7228

FAX: 785-856-5658

www.flinthillsholdings.com

www.9DelLofts.com

www.poehlerloftapartments.com

www.liveatchatham.com

www.rockhillgreens.com



Jacqueline Putman
Flint Hills Management Group, LLC
832 Pennsylvania Street, OFC 1001
Lawrence, KS 66044
jputman@flinthillsmgmt.com

July 21, 2015

RE: Lawrence Bistro – 804 Pennsylvania Street

Dear Commissioners,

This letter is to confirm that there has been zero documented noise complaints regarding the Cider Gallery made by current or previous residents at the Poehler Lofts. Under Section 42 of the Internal Revenue Code, the Poehler Lofts, as well as all LIHTC (Low Income Housing Tax Credit program) properties, are required to keep documented complaints from all residents for at least 7 years. We have researched all the Poehler tenant files from the opening of the building, June 2012 to the present and have found no noise complaints.

Please contact me with any questions! Thank you.

Jacqueline Putman
VP of Property Management
Flint Hills Management Group
785-550-7228
jputman@flinthillsmgmt.com

From: Jacqueline Putman [<mailto:jputman@flinthillsmgmt.com>]

Sent: Tuesday, July 21, 2015 5:24 PM

To: Robert.c.sands@gmail.com; bcculver@gmail.com; julia.v.butler@gmail.com; pkelly@usd497.org; amalia.graham@gmail.com; denney1@sunflower.com; squampva@aol.com; clay.britton@yahoo.com; bruce@kansascitysailing.com; eric.c.struckhoff@gmail.com; Mary Miller; Scott McCullough

Subject: 9 Del Lofts Support of Bistro - 804 Penn

Commissioners,

Please see the attached signatures from current 9-Del Loft residents in support of the Bistro – 804 Pennsylvania Street Special Use Permit.

9-Del Lofts is a brand new property and many residents are still moving in, however, we were able to get all signatures in support of the Bistro.

Again, please let me know if you have any questions. Thank you!

Jacqueline Putman
Vice President of Property Management
Flinthills Management Group



832 Pennsylvania Street
Lawrence, KS 66044

PH: 785-550-7228

FAX: 785-856-5658

www.flinthillsholdings.com

www.9DelLofts.com

www.poehlerloftapartments.com

www.liveatchatham.com

www.rockhillgreens.com

July 10, 2015

City of Lawrence
City and Planning Commissioners
6 East 6th Street
Lawrence, KS 66044

9 Del Lofts
900 Delaware Street
Lawrence, KS 66044

RE: Special Use Permit Request for 804 Pennsylvania St.

Esteemed Commissioners,

As 9 Del Loft tenants, we are extremely supportive of the Special Use Permit application for the neighboring development referred to as "The Bistro" at 804 Pennsylvania Street.

Let this letter, and the accompanying signatures, show that we fully support the issuance of a Special Use Permit with the following proposed requirements:

1. Occupancy. No more than 75 persons may be within the outside dining area at any one time. The interior of the building is limited to no more than 44 persons.
2. The number of tables and chairs, as shown on the approved site plan, shall be provided to patrons during all hours that the outside dining area is open, including during Temporary Special Events.
3. Amplified live music on the outside dining area shall cease at 10pm Sunday through Thursday and at 11pm Friday and Saturday. Other music (live acoustical and digital or stereo sources) shall be kept at an ambient level after those times.
4. Requirements to provide food:
 - a. Food shall be available for purchase at all times the establishment is open. The food may be provided within the building and/or by food trucks on site.
 - b. The food shall consist of menu items more substantial in nature than the typical nuts and/or popcorn offered at bars, yet affordable options should

be provided. Items such as pastries, breakfast foods, sandwiches and sides, or meals will meet the intent of this requirement.

5. Based on the information from ABC representative, a railing or distinguishable barrier should be installed along the 18" wall around the dining area to clearly demarcate the area and prevent patrons from spilling over into the parking area.

As tenants, we chose to move into this apartment complex and neighborhood over others because of the vibrancy and innovation manifested in all of the Warehouse Arts District developments. Not only do we ask for your vote of approval, but we intend to support the business as patrons for years to come.

Sincerely,

9 Del Loft Apartment Residents

(Signatures Enclosed)

Name:

Unit #:

Todd Foster

Office

Watt Fox

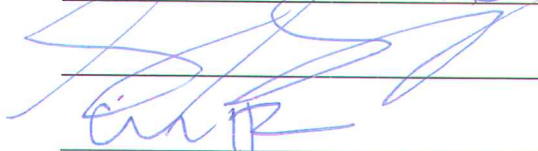
Office

Carlyl Hyer

201

ERIK JOHANSEN

Artist



101

Katie Trutt

411

An Speed

105

Anna Lind

302

Katy S

302

Rodriguez

406

Stephanie Sam

104

Joey Millmatt

108

Chris Hansen

201

Alana Sanchez

307-

Miriam Holcom

310

Matthew E. Rupp

404

Cindy Roff

103

Ellen Rueden

402

Glenn Smith

409

Mr. Smith

206

Cheryl Saff

102

Kim Jones

203

~~John Doe~~

203

John Doe

211

Helena Cherox

411

Pam Hymn

401

~~John Doe~~

408

From: Jacqueline Putman [<mailto:jputman@flinthillsmgmt.com>]

Sent: Tuesday, July 21, 2015 5:18 PM

To: Robert.c.sands@gmail.com; bcculver@gmail.com; julia.v.butler@gmail.com; pkelly@usd497.org; amalia.graham@gmail.com; denney1@sunflower.com; squampva@aol.com; clay.britton@yahoo.com; bruce@kansascitysailing.com; eric.c.struckhoff@gmail.com; Mary Miller; Scott McCullough

Subject: Poehler Lofts Support letters for the Bistro - 804 Penn

Commissioners,

Please see the attached letter of support from the Poehler Lofts residents for the Bistro - 804 Pennsylvania Street Special Use Permit.

One point of clarification, some residents when approached to sign this final document, were either unavailable during our office hours or getting worn out by the solicitation for signatures. All residents are very supportive of the Bistro and look forward to it joining their community very soon. Everyone has voiced verbal support about its opening next door.

Also attached is a letter from one of our residences at the Poehler Lofts, David Hickey, asking to relocate to the west side of the property in order to experience the Bistro when it opens. Just wanted this to illustrate that residents are not concerned with the Bistro opening, but rather see it as an asset.

Please let me know if you have any questions. Thanks so much!

Jacqueline Putman
Vice President of Property Management
Flint Hills Management Group



832 Pennsylvania Street

Lawrence, KS 66044

PH: 785-550-7228

FAX: 785-856-5658

www.flinthillsholdings.com

www.9DelLofts.com

www.poehlerloftapartments.com

www.liveatchatham.com

www.rockhillgreens.com

July 10, 2015

City of Lawrence
City and Planning Commissioners
6 East 6th Street
Lawrence, KS 66044

Poehler Loft Apartments
619 East 8th St.
Lawrence, KS 66044

RE: Special Use Permit Request for 804 Pennsylvania St.

Esteemed Commissioners,

As Poehler Loft Apartment tenants, we are extremely supportive of the Special Use Permit application for the neighboring development referred to as "The Bistro" at 804 Pennsylvania Street.

Let this letter, and the accompanying signatures, show that we fully support the issuance of a Special Use Permit with the following proposed requirements:

1. Occupancy. No more than 75 persons may be within the outside dining area at any one time. The interior of the building is limited to no more than 44 persons.
2. The number of tables and chairs, as shown on the approved site plan, shall be provided to patrons during all hours that the outside dining area is open, including during Temporary Special Events.
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 - b. The food shall consist of menu items more substantial in nature than the typical nuts and/or popcorn offered at bars, yet affordable options should

be provided. Items such as pastries, breakfast foods, sandwiches and sides, or meals will meet the intent of this requirement.

5. Based on the information from ABC representative, a railing or distinguishable barrier should be installed along the 18" wall around the dining area to clearly demarcate the area and prevent patrons from spilling over into the parking area.

As tenants, we chose to move into this apartment complex and neighborhood over others because of the vibrancy and innovation manifested in all of the Warehouse Arts District developments. Not only do we ask for your vote of approval, but we intend to support the business as patrons for years to come.

Sincerely,

Poehler Loft Apartment Residents

(Signatures Enclosed)

Poehler Lofts

Name:

Unit #:

~~Katherine Jade Katz~~

108

~~Janene Ramsey~~

108

~~Carol Lujano~~

111

~~Robert Burma~~

102

~~Paul Smith~~

107

~~[Signature]~~

Basement
Condo -

Sharon Chermak

401

Maggi Mi

206

Melitha Johnson

206

~~[Signature]~~

property manager

~~[Signature]~~

201

~~[Signature]~~

212

~~[Signature]~~

302

~~[Signature]~~

406

~~[Signature]~~

109

Kaufa Mitchell

106

Kam McOmme

100

~~[Signature]~~

312

~~[Signature]~~

412

409

Josh Stringer Jey
Rui Maquich Rm

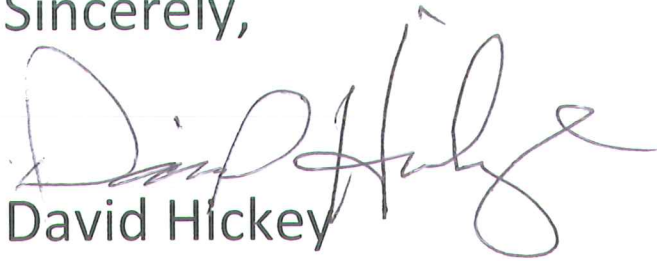
407

407

Flint Hills Management,

I am interested in a unit facing the West side,
so I can overlook the Bistro when it opens.
Please let me know if and when something is
available and we can discuss.

Sincerely,

A handwritten signature in dark ink, appearing to read "David Hickey", written over the printed name.

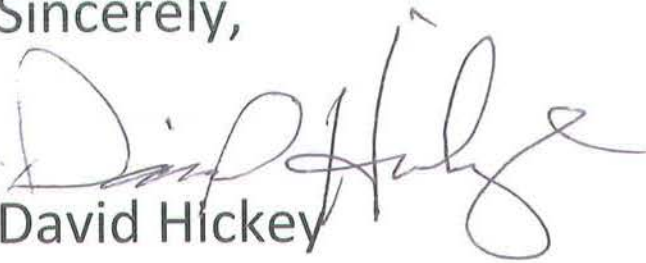
David Hickey

Unit 109

Flint Hills Management,

I am interested in a unit facing the West side,
so I can overlook the Bistro when it opens.
Please let me know if and when something is
available and we can discuss.

Sincerely,

A handwritten signature in dark ink, appearing to read "David Hickey", with a large, stylized flourish at the end.

David Hickey

Unit 109

From: **Alex Santos** <asantos@flinthillsholdings.com>

Date: Tue, Jul 21, 2015 at 4:47 PM

Subject: Bistro SUP Business Owners Letters of Support

To: amalia.graham@gmail.com, pkelly@usd497.org, julia.v.butler@gmail.com,
bcculver@gmail.com, Robert.c.sands@gmail.com, denney1@sunflower.com,
squampva@aol.com, clay.britton@yahoo.com, bruce@kansascitysailing.com,
eric.c.struckhoff@gmail.com

Hello, Commissioners.

We have compiled a list of surrounding businesses that support a special use permit as written in the attached letter. They feel that these requirements without restriction to hours of operation are more than sufficient and factor in all concerns from the surrounding neighborhood. All of the attached business owners understand the challenges of running a small business and support a city and commission that provide an environment that allows for small businesses to succeed.

Please see attachment. Thank you.

--

Alexandra Santos
Property Manager The Poultry Building
832 Pennsylvania Street

--

Alexandra Santos
Flint Hills Holdings Group

July 10, 2015

City of Lawrence
City and Planning Commissioners
6 East 6th Street
Lawrence, KS 66044

Warehouse Arts District and Surrounding Business Owners

RE: Special Use Permit Request for 804 Pennsylvania St.

Esteemed Commissioners,

Let this letter, and the accompanying signatures, show that we fully support the issuance of a Special Use Permit with the following proposed requirements:

1. Occupancy. No more than 75 persons may be within the outside dining area at any one time. The interior of the building is limited to no more than 44 persons.
2. The number of tables and chairs, as shown on the approved site plan, shall be provided to patrons during all hours that the outside dining area is open, including during Temporary Special Events.
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5. Based on the information from ABC representative, a railing or distinguishable barrier should be installed along the 18" wall around the dining area to clearly demarcate the area and prevent patrons from spilling over into the parking area.

We chose to set up and grow our businesses in the Warehouse Arts District and East Lawrence because we feel there is a tremendous amount of momentum and positive energy that will help us as business owners. Some of us were attracted because of the creative population base that exists here, some for the affordable space availability, some to work alongside like minded folk, but all of us want to work in a vibrant district that provides a home and identity for our business that matches our professional culture.


We are extremely excited for this next business to open its doors at 804 Pennsylvania, and we will support them like we do our current neighbors and colleagues. Professionally, this addition is needed as a place to entertain clients, build relationships amongst coworkers and get to know other businesses in the area by sitting at the same table for a beverage or meal. Personally, the concept for this bistro could not be more fitting for its location and building.


We fully support the Special Use Permit being pursued and will anxiously await the grand opening should this Permit receive approval!

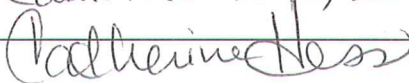
Sincerely,

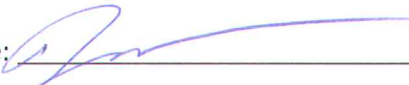
Warehouse Arts District and Surrounding Business Owners


(Signatures Enclosed)

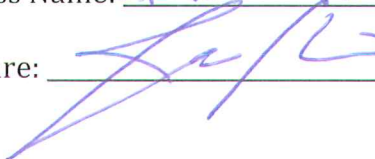
Business Name: Deines Legal, LLC Address: 832 Pennsylvania
Signature:  Printed Name: Brandon Deines


Business Name: The Prier Law Firm, LLC Address: 832 Penn.
Signature:  Printed Name: Jason Prier

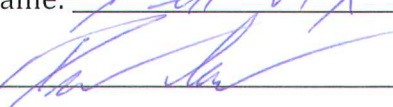
Business Name: The Law Offices of Catherine Hess, LLC Address: 832 Penn
Signature:  Printed Name: Catherine Hess


Business Name: TRETEL DESIGN Address: 846 PENN
Signature:  Printed Name: JUSTIN KIREKEMEIER

Business Name: JEREMY MORRIS Address: 720 #7
Signature:  Printed Name: SeedCo Studios

Business Name: LAWENCE PHOTO STUDIOS Address: 720 E 9th #6
Signature:  Printed Name: Lawence

Business Name: Through A Glass Address: 720 E. 9th
Signature:  Printed Name: Nathan Tamps

Business Name: TELL VFX Address: 720 E 9th #8
Signature:  Printed Name: Derek Sellers

Business Name: Through A Glass Address: 720 E. 9th #8
Signature:  Printed Name: Chris Blunk

Business Name: Through A Glass Address: 720 E 9th St #8
Signature: [Signature] Printed Name: Stephen Deaver

Business Name: Potter's Address: 901 Delaware
Signature: [Signature] Printed Name: Sam & Lynn

Business Name: A-1 Automotive Address: 837 Penn
Signature: [Signature] Printed Name: Brian Eveland

Business Name: A-1 Automotive Address: 837 PENNSYLVANIA STREET
Signature: [Signature] Printed Name: Timothy J. Wudarczyk

Business Name: Cider Gallery Address: 810 Pennsylvania
Signature: [Signature] Printed Name: Tara Sacerdote

Business Name: APEX ENGINEERS Address: 810 PENNSYLVANIA, #29
Signature: [Signature] Printed Name: MIKE BRUNIN

Business Name: [Signature] Address: 810 Penn
Signature: [Signature] Printed Name: AK Wohlshlagel

Business Name: STAR SIGNS LLC Address: 801 E. 9TH Street
Signature: [Signature] Printed Name: Robert Terry

Business Name: Star Signs LLC Address: 801 E 9th Street
Signature: [Signature] Printed Name: Stacey Singer

Business Name: STAR SIGNS LLC Address: 801 E 9TH ST
Signature: Kristin Seale Printed Name: KRISTIN SEALE

Business Name: Star Signs LLC Address: 801 E 9th St
Signature: Wm Dillon Printed Name: William Dillon

Business Name: Star Signs LLC Address: 801 E. 9th St
Signature: Robin Normann Printed Name: Robin Normann

Business Name: Star Signs, LLC Address: 801 E. 9th St.
Signature: Jim Lyle Printed Name: Jim Lyle

Business Name: STAR SIGNS LLC Address: 801 E. 9TH ST.
Signature: Ashley Floersch Printed Name: ASHLEY FLOERSCH

Business Name: STAR SIGNS LLC Address: 801 E. 9TH
Signature: Shelley Rostahl Printed Name: SHELLEY ROSTAHL

Business Name: STAR SIGNS LLC Address: 801 E. 9TH
Signature: William Pronovost Printed Name: William Pronovost

Business Name: Star Signs LLC Address: 801 E. 9th
Signature: Karen Braden Printed Name: Karen Braden

Business Name: ARTIST Address: 720 E 9TH ST. #1
Signature: Clare Duveon Printed Name: CLARE DUVEON

Business Name: Star Signs Address: 801 E. 9th St.

Signature: Erin Sameck Printed Name: Erin Sameck

Business Name: TREKK Address: 810 Penn

Signature: [Signature] Printed Name: _____

Business Name: TREKK Address: 810 Pennsylvania

Signature: erin stauffer Printed Name: ERIN STAUFFER

Business Name: Trekk Address: 810 Penn

Signature: Dylan Garrett Printed Name: Dylan Garrett

Business Name: MARK VOSS DESIGN Address: 810 PENN

Signature: [Signature] Printed Name: mark voss

Business Name: CIDER GALLERY, LLC Address: 810 PENNSYLVANIA

Signature: JENNIFER LEITER Printed Name: JENNIFER LEITER

Business Name: Smiling Mad Address: 720 E. 9th St #4

Signature: Margo Holland Printed Name: Margo Holland


Business Name: Yellow Pencil Studio Address: 720 E 9th St #4


Signature: Christy Schneider Printed Name: Christy Schneider

Business Name: Lawrence Community Photo Address: 720 E 9th #6

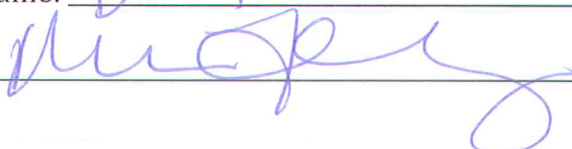
Signature: John Clayton Printed Name: John Clayton


Business Name: Kennedy Glass Address: 987 ENSO Rd
Signature:  Printed Name: Randall Fummeft


Business Name: Kennedy Glass Address: 730 NEW JERSEY
Signature:  Printed Name: John Kennedy


Business Name: Kennedy Glass Address: _____
Signature:  Printed Name: Zac Hoffines

Business Name: _____ Address: _____
Signature:  Printed Name: _____

Business Name: BIXY Address: 810 Penn
Signature:  Printed Name: Andelyn Fernandez

Business Name: Bixy Address: 810 Penn
Signature:  Printed Name: Evan Hodges

Business Name: Bixy Address: 810 Penn
Signature:  Printed Name: Kyle Johnson

Business Name: Bixy Address: 810 Penn
Signature:  Printed Name: Danielle S. Peterson

Business Name: _____ Address: _____
Signature: _____ Printed Name: _____

Business Name: Bixy Address: 810 Penn
Signature: [Signature] Printed Name: Kyle Johnson

Business Name: Bixy Address: 810 Penn
Signature: [Signature] Printed Name: G.J. Melia

Business Name: _____ Address: _____
Signature: _____ Printed Name: _____

Business Name: _____ Address: _____
Signature: _____ Printed Name: _____

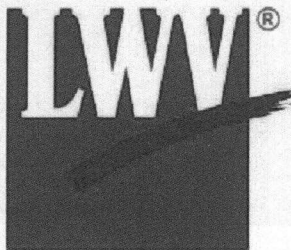
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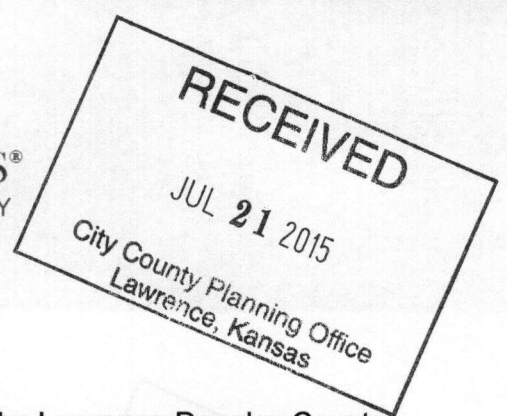
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LEAGUE OF WOMEN VOTERS®
OF LAWRENCE/DOUGLAS COUNTY



July 21, 2015

TO: Mr. Clay Britton, Chair, and Members of the Lawrence-Douglas County Metropolitan Planning Commission

RE: ITEM NO. 5 SPECIAL USE PERMIT FOR 804 PENNSYLVANIA ST

When this issue was placed on the Planning Commission's March 23, 2015 agenda, the League of Women Voters Land Use Committee wrote a letter in opposition to the proposal to rezone the property to eliminate the 55% food sales reporting requirement. We were primarily concerned whether a bar without food service could meet the needs of the community; and whether it would attract a large number of customers from outside the neighborhood, eventually becoming a hazard and a nuisance rather than a benefit for the residents. We were also unsure whether conditions imposed under a SUP could adequately address the food issue. Although we still do not think this property should be exempt from the 55% food requirement, we agree that the next best outcome is a Special Use Permit with stringent conditions.

It is obvious that Planning Commission Staff has put a lot of thought into the SUP and made an attempt to cover each and every issue. We believe, however, there are still two areas where further adjustments would benefit the neighborhood: operating hours and sound level, particularly in relation to the outdoor dining area.

3.d. Staff Recommendation - Sound Levels: live music on the outside dining area shall cease at 10:00 p.m. Sunday through Thursday, and at 11:00 p.m. Friday and Saturday. Other music (live acoustical and digital or stereo sources) shall be kept at an ambient level after those times.

Response: The issue of sound has been discussed several times in prior hearings on this rezoning request. Whenever it arises, the answer always involves outdoor events held at the Cider Gallery, with the primary argument being if there is no objection to noise from the Cider Gallery (a statement which is disputed) there should be no objection to noise from this proposed small bistro next door. No one has mentioned that the Cider Gallery has only one or two events per week, while the property in question could be open seven days a week. If amplified music is allowed, the onslaught of noise day after day would be very disruptive to the neighborhood. This could potentially be handled by prohibiting outdoor amplified music altogether or by limiting the number of days per week amplified music is allowed.

President
Debra Duncan

Vice President
Cille King

Secretary

Treasurer
Marjorie Cole

Directors
Margaret Arnold

Marci Francisco

Janice Friedman

Midge Grinstead

Carol Klintnett

Marlene Merrill

Marlaine Stoor

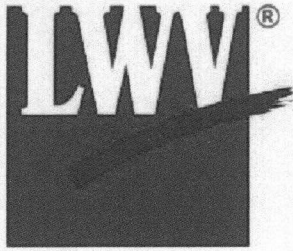
Austin Turney

Melissa Wick

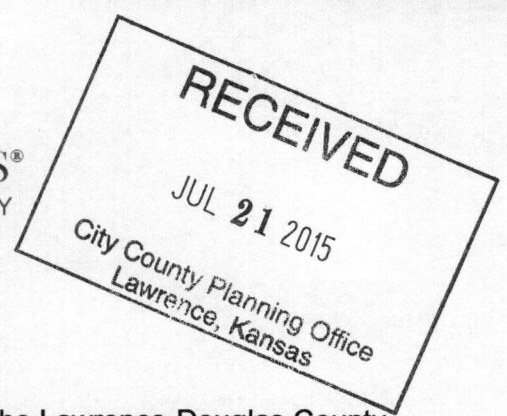
PO Box 1072 Lawrence, KS 66044-1072

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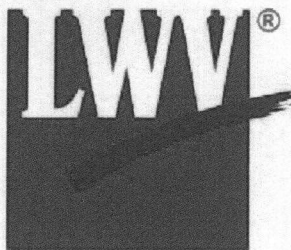
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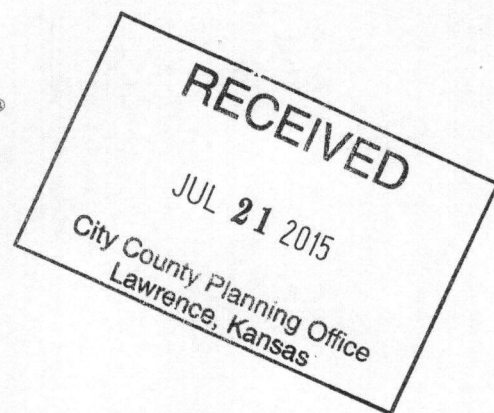
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2.d. Staff Recommendation: Operating Hours. The outdoor seating area shall be closed (unoccupied) at 11:00 p.m. Sunday through Thursday and 12:00 a.m. Friday and Saturday. Business hours inside the building are unrestricted.

Response: Allowing outdoor seating until 11 pm on weeknights and 12 pm on Fridays and Saturdays seems unreasonable for an establishment located in the middle of a neighborhood. Again, the impact on the neighborhood could be mitigated or controlled by prohibiting or limiting outdoor amplified music.

Based on the public comments during the May 19, 2015 City Commission meeting, it is apparent that a small, quiet neighborhood restaurant/bar is something that many people in the area would enjoy. Limiting the impact of noise from this establishment may help to achieve that goal.

Sincerely,

Debra S. Duncan
President

Alan Black, Chairman
Land Use Committee

From: Phil Collison [<mailto:phil@collison.com>]

Sent: Monday, July 20, 2015 9:18 AM

To: Scott McCullough

Subject: 804 Penn SUP

Hi Scott, please include this for the Planning Commission Packet for 8/22 agenda item 5.

Here are my thoughts on this SUP.

I want to see this establishment geared more towards being a neighborhood restaurant rather than a neighborhood bar. The bar aspect has connotations that do not make it fit in to a neighborhood as well as a restaurant can.

I also believe the standards set forth in this SUP will have precedent setting consequences both in this newly burgeoning area as well as in other areas of the city.

The SUP should limit hours, both inside and outside. I would prefer an earlier closing on the inside than the SUP offers. Midnight would be good.

The SUP should have specific and measurable standards on food. Percentages of sales would be the easiest way to measure.

The SUP should have specific and measurable standards on noise. There are families living within view of the site. They do not need the distractions of a bar, but want the amenities of a restaurant.

The current SUP as written leaves far too much interpretation to the standards being placed. The standards being put into place should not be left to judgements.

The new restaurant should be a positive addition to the neighborhood, a new bar is a divisive addition to the neighborhood. The primary entertainment district is a mere 5 or 6 blocks away, where it should be - Downtown.

Thanks for the opportunity to give feedback.

Phil Collison
900 block of Pennsylvania.

East Lawrence Neighborhood Association

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



July 19, 2015

Re: SUP for 804 Pennsylvania

The East Lawrence Neighborhood Association is pleased to be able to weigh in on the Special Use Permit for the restaurant that is being proposed for 804 Pennsylvania. We would have much preferred that the applicant just follow the rules as they were laid out in the Conservation Overlay District that we worked hard to put into place back in 2006. The goal then was to allow for development that could be congruent within a neighborhood. Our goal today will be to accomplish that same thing. Applicant has been discussing this issue with us for nearly three years; our feedback to him throughout that timeframe has been consistently the same, we want the hours shortened, we want food served, and we want noise mitigated. Applicant has not budged on a desire to run a bar with no food requirements, but with good intentions to serve food.

A Special Use Permit should define specific criterion that would make it very easy to determine if a bar were in compliance. That criterion should be easily measurable. That this bar should be capable of serving “substantial” food during all hours it is open is not easily measurable and could quickly be undermined by a shrewd owner. Our intent is that not only would the bar be prepared to serve food, but food would be served routinely, and the volume of food served be documented in some manner. A percentage of sales is an easily measurable methodology. The SUP should have a clear and measurable method for documenting the amount of food served.

A Special Use Permit should also have a measurable component in regards to noise. Keeping the noise to an “ambient level” requires judgment on the part of the listener, and the perception of ambient noise to a neighbor lying in bed with a window open would be quite different than how a person having a conversation on the deck of said bar might perceive ambient noise. Noise levels should be easily measurable and criterion chosen should be specific. Routine checks should be made by City Staff to ensure compliance. Dense vegetation around the patio could also help keep sound reverberation to a minimum.

In 2006 when we came up with a 55% food requirement for the overlay we wanted a way to encourage a business to open as a restaurant rather than a bar. Applicant wants the business to be more bar than restaurant and has stated an intent to have the bar available to patrons of the Cider Gallery once their special events end. Late night hours may be desired by the owner, but are not conducive to a quiet and peaceful neighborhood. We do see this recognized by the SUP for the outside area of the bar. We want it to go one step further and apply to the inside area of the bar. We do not see potential for food service in the late night hours that a bar would be open, and we do not believe that late night bar

activities are congruent within the neighborhood. We want to see a reasonable closing time of midnight for the inside patrons, also.

Applicant has stated good intentions will drive the operations of the bar. We are glad that Applicant does have good intentions, but also believe good intentions should have checks and balances in place to back them up. That is what a clear and concise Special Use Permit can accomplish. Those good intentions should make it such that the SUP does not come into play. We hope that they do, but we will sleep better at night knowing that a solid SUP will accomplish what our hopes may not.

Thank you for the opportunity to provide input,

A handwritten signature in black ink, appearing to read "Aaron Paden". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Aaron Paden
President, East Lawrence Neighborhood Association

July 19, 2015

From: N. Proudfoot, Resident and Property owner E.L.

To the City of Lawrence:

The Ant-track and the 9th street Corridor:

The supposed "Art Corridor" has little if nothing to do with Art. It is a Trojan horse strategy, using Art as a ploy to Access the neighborhood for developers and speculators, who do not even live in Lawrence. There are 9 residential houses on 9th street. Where are these people going to go? East Lawrence is one of the oldest original working class neighborhoods west of the Mississippi still basically intact! It is residential, light commercial and small business, mostly owner occupied that is if you do not count the 100 new apartments to the north. We already have public gathering places; Lawrence creates, Art Emergence, The Cider House. The idea of putting a bar at 801 Penn seems out of order. I live at 814 New Jersey and *have to get my sleep. I hear complaints from people who live next to bars and they reiterate how noisy it is and having to deal with the drunk patrons at 2 am in the morning. Is this just opening the door to what else will be allowed?*

Why after decades of neglect, all of a sudden there is such an amount of interest in the east Lawrence. We find this highly suspicious. I am not against development but it has to include sustainability and participation of local property and Business owners in the process and not just outside investors. The corridor is the magnet for land speculators and drive up prices to make a quick buck in the process driving out long term even 4th generation residents.

It is the first step in the creation of a Manhattan-style Aggieville in the Heart of East Lawrence. What we need is new sewers, sidewalks, traffic calming devices, pedestrian friendly streets and sidewalks and Low lighting, not a satellite entertainment district competing with downtown. For all our property taxes we deserve more than 30 years of neglect. Lawrence was born in these bottoms. Remember to preserve our past, and not be blinded by visions of exploiters.

I am a neighbor that is objecting to the opening of a late night bar on Penn Street in East Lawrence and one who will be directly affected by the commotion.

N. Proudfoot
proud38@gmail.com

From: "Judy Romero" <jjromero@hotmail.com>
To: "Scott McCullough" <smccullough@lawrenceks.org>
Cc: "Judy Jane Romero" <jjromero@hotmail.com>, "Phil Collison" <phil@collison.com>
Subject: Bistro/bar of 800 block of Pennsylvania St
Date: Fri, Jul 17, 2015 11:44 am

I'm Judy Romero of 929 Pennsylvania St. My family has lived on the 900 block for many years. (I grew up in the 50s on the block)

I am writing to voice my four concerns of the BAR/bistro to the area.

When Robert Kruse set up his business, the family supported him. It was a great improvement after living with the east side bar (under age drinking & rude college kids & picking up beer cans very weekend.)

Now & the future ...ugh.

1. noise

The occasional food fest & festival is OK. But my concern now is based on an instinct. This could be an open door to late night craziness/noise not just occasionally but weekly (daily/nightly OMG) it seems the owners of the bistro/bar are wanting to make money with no regard to the neighborhood.

Tom once stated change is coming if you like it or not. So I've become suspicious.

It would be nice to have a quiet place to walk to for a drink or food when having out of town company. But at what cost to the neighborhood?

2. drinking

50% food 50% liquor would be what I think logical but not what owners want. It would need to be called a bar not a bistro, if liquor % is higher. I think a person who drinks daily & that late at night may not be what would be good for the neighborhood.

3. hours of operation

Late night hours are of concern. These late hours are not for the 8 to 5 worker & the nearby neighbors trying to sleep. So who would be buying drink/food at the late hour? It been said the restaurant/bar workers of Lawrence needed a place and this would be it... & daily. How many would that be? How could a business make money off these workers? So there must be more to this venture than we have been told.

4. size of the place

This is of interest. Small, yes, but something tells me there are already plans to expand...to make money. It would be a nice place for private parties & gatherings like cider gallery. That would be great!

FYI

These are incidents we have experienced from east side bar. I've had people ring my door bell after midnight wanting to use bathroom. (heard them talk but did not answer)

My brother across the street had men & women urinate in the yard behind hedge. He also had word exchanges with people...most were college students. He finally removed hedges. The words exchanged summed up --its a bad neighborhood & they could do what they (college kid) want.

I also know that marijuana can easily be accessed....I've called & written the police. So what other drugs could be had. Yes its available all over town but if it can be stopped in this area maybe we could avoid future problems.

It is sad to say I see more negatives than positives for the future, if this BAR/bistro is able to set its rules/conditions of operation. Other businesses would be ready to open if there is this freedom the city would allow.

Respectfully,

Judy Romero

jjomero@hotmail.com

785 760-2107

From: C L Suenram [<mailto:csuen3@sunflower.com>]
Sent: Monday, July 20, 2015 8:56 AM
To: Scott McCullough
Cc: Diane Stoddard
Subject: 804 Pennsylvania

July 20, 2015

To the Planning Commissioners,

Regarding the SUP for 804 Pennsylvania, we do not support the proposal as written by the applicant.

There needs to be a set closing time, not just adjusting the sound levels of the music at 10 and 11 o'clock. Who describes what is ambient at midnight during the week?

There needs to be a very adequate sound barrier.

There needs to be a more reliable food requirement.

There does not need to be a bar close by for when an event at the Cider Gallery (where alcohol can be served via catering) ends for people to go have another drink. There are plenty other bars nearby downtown.

Once again, if the business model does not work a new business model can be figured out.

Thank you for your consideration of this matter.

Cindy Suenram
Arch Naramore
1204 New York
Lawrence