

East Lawrence Neighborhood Association

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September 20, 2021

To: Lawrence/Douglas County Planning Commission

Re: SUP-21-00266

The East Lawrence Neighborhood Association (ELNA) is writing to address conditions of a Special Use Permit (SUP) being proposed for 801 Pennsylvania Street in the event that a rezoning of the property is approved. As we will explain below, **ELNA's Board would very much like to support the proposed business, however we cannot support the SUP provisions as recommended in the Staff Report, specifically regarding a lack of time limits on the SUP and the transferability of the SUP.**

ELNA is very appreciative that Mr. Mike Kirkendoll requested to attend our monthly meeting in August to present his concept for the East Lawrence Wine Academy that would be operated at 801 Pennsylvania Street by his entity, Uncorked Pianist LLC. As Mr. Kirkendoll presented his proposal, the Wine Academy would require a rezoning of the property that his LLC entity is leasing at 801 Pennsylvania Street, and a Special Use Permit.

Several members of our Board, reflecting widely held views in the neighborhood, are concerned that East Lawrence's Warehouse Arts District is in serious danger of morphing into a Warehouse Alcohol District. We need only look at the nearby Crossroads Arts District in Kansas City to see what can happen in an inappropriately regulated Arts community. This is NOT what we want for our neighborhood! We had a very frank discussion with Mr. Kirkendoll about our concerns.

We were very pleased to learn that Mr. Kirkendoll would be proposing several conditions for the SUP that would address several of our concerns. After the meeting, Mr. Kirkendoll emailed us that these would be the LLC's proposed conditions for the SUP:

- Hours restricted to 12:00pm-11:00pm, M-Sat / 12:00pm-9:00pm, Sun
- No live music outdoors.
- Live music inside limited to acoustic only.
- No draft beer sold.
- No cocktails/mixed drinks except wine-based cocktails.
- No television / sports during business hours.
- Maximum guest capacity inside of 25 people for regular service and classes
- **Terms are limited to lease term of 3 years (renewable).**
- **SUP is not assignable.**

Our Board met again to consider the proposal. We asked Mr. Kirkendoll to consider two additional conditions. These conditions were that the operator of the business actually reside on premises, since this is supposed to be a live/work space, and that the SUP be subject to an annual compliance review by the Planning Department.

These discussions resulted in the addition of these proposed conditions before you:

C. The operator shall meet annually with the East Lawrence Neighborhood Association to discuss the business and review any impacts on the area. The first meeting shall occur within one year of the

date of the City Commission approval of the special use permit. The operator shall provide the results of the annual meetings to the Planning Office within 2 weeks of the meeting date.

D. The operator shall reside in the suite that houses the business.

ELNA's Board agrees that each of these conditions are appropriate; however, an annual meeting with ELNA does not substitute for an annual review by the Planning Department. A volunteer neighborhood association has neither the expertise, the staffing or the jurisdiction to do what is needed. For example, we have no legal authority to request or review business documents.

After working collaboratively with Mr. Kirkendoll, ELNA is convinced that the Uncorked Pianist LLC can operate the business in a manner that would be compatible with the area, and that personally, Mike and Mary Kirkendoll would be wonderful neighbors.

Unfortunately, we cannot count on a successor tenant to exercise the same care in their operations as we expect to see from the Uncorked Pianist LLC. If there is an alcohol related SUP running with the land that allows the 55% food requirement to be circumvented in perpetuity, this could incentivize the landlord to find another alcohol-based tenant to rent the space once this tenant decides to leave or their lease is not renewed. Alternatively, the business could be so successful that the LLC might seek to expand its operation by relocating to the new building to be built at Ninth and Delaware, resulting in an alcohol-based business in both buildings. Once this exception is granted, without any time limitation, there is little basis for denying such an exception to the next applicant that comes along wanting to circumvent the 55% food requirement. One property at a time, we go from Arts District to Alcohol District, a stone's throw from VanGo and New York School.

ELNA was fine with the conditions as originally presented by the applicant, and by and large is fine with the conditions as modified by the Staff, with less specific control over types of alcohol and music and more limited hours of operation. We appreciate that both the applicant and the Staff were responsive to ELNA's positions that the operator should actually live in a live/work space, and that there should be a mechanism for regular review.

We respectfully request that the Planning Commission reinstate two conditions that the applicant and the Neighborhood Association agreed to:

- **Terms are limited to lease term of 3 years (renewable), with annual compliance review by Planning Department**
- **SUP is not assignable or transferable.**

With these modifications, ELNA can support this SUP with confidence that it will provide a model for future SUPs in this district, to ensure that the district evolves in a manner which will make it a center of art and culture, compatible with the center of art and culture that the rest of East Lawrence already is.

Thank you for your consideration.
Sincerely,

A handwritten signature in dark ink, appearing to read "Barry M. Shalinsky". The signature is fluid and cursive, with the first name "Barry" being more legible than the last name "Shalinsky".

Barry M. Shalinsky
President, on behalf of the ELNA Board