



## Legislation Details (With Text)

**File #:** 13-0356 **Name:**  
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**File created:** 6/18/2013 **In control:** Board of Aldermen  
**On agenda:** 6/25/2013 **Final action:** 6/25/2013  
**Title:** Request for a Minor Modification to the CUP for 300 East Main related to adding a residential use category and outdoor uses on the site.

### Indexes:

### Code sections:

**Attachments:** 1. Attachment A - Resolution Approving the Minor Modification, 2. Attachment B - Letter from Applicant, 3. Attachment C - Appearance Commission

Date	Ver.	Action By	Action	Result
6/25/2013	1	Board of Aldermen	approved as amended	Pass

### TITLE:

Request for a Minor Modification to the CUP for 300 East Main related to adding a residential use category and outdoor uses on the site.

**PURPOSE:** The purpose of this item is for the Board to consider adopting a resolution approving changes to the sidewalk / courtyard area of the 300 East Main project.

**DEPARTMENT:** Planning Department

**CONTACT INFORMATION:** Marty Roupe, 918-7333

**INFORMATION:** Main Street Partners has submitted an application requesting the addition of a residential land use category to the CUP, approval of a covering for an outdoor dining area, and seeking flexibility regarding what changes may take place in the sidewalk and courtyard areas of the site (See Attachment B).

Regarding the addition of a residential use category, the applicant proposes to add use 1.331, multi-family apartments to the upper stories of buildings B, C, and E. The applicant's letter explains reasons why they wish to add this use at this time. Further, the applicant has stated that they understand and acknowledge that this application, if approved, only adds the use category; this approval does not authorize the actual construction of any residential component. The applicant intends to submit an application at a later date detailing how many units, exact locations, how they conform to the associated Downtown Livability and Urban Amenities sections of the ordinance, etc.

Staff has discussed with the applicant that ideally they would retain commercial use of these buildings rather than converting portions of them to residential, as such a change has potential negative implications for the anticipated tax base associated with the project. In doing so, it was noted that the applicant now controls the adjacent 'Butler' project, which effectively amounts to a residential component for the 300 East Main project.

Also proposed is a covering for an outdoor dining area. A restaurant under construction desires to cover an

outdoor dining area on the sidewalk area near the hotel entrance (See Attachment B). Per LUO Section 15-64, staff determined that the change should be considered a Minor Modification to the CUP.

The CUP for the project anticipated outdoor dining in areas such as this, but no details were known at the time about exactly where they would be located. The Board authorized in the original CUP the ability for such areas to change locations over time. Not contemplated at the time, however, was how to treat other changes such as a request to provide a cover to an outdoor dining area. In this case, the covering will be up to 700 square feet (the attached letter reads 500 sf, but should say 700 sf) in size and will provide seating for up to 53 people.

Lastly, the applicant is requesting flexibility regarding how similar potential changes are handled in the future. Some flexibility is provided in LUO Section 15-64 in what is termed an Insignificant Deviation to the permit. Section 15-64 allows for staff review and evaluation of any proposed change based on the perceived impacts of what is proposed. In discussing the above request for a covering with staff, the applicant thought it might be helpful to seek a modification to clarify how all changes should be handled moving forward. They noted that the site likely will change over time with the needs and desires of tenants, and that they would like to be able to negotiate such changes with both existing and prospective tenants without having to tell them that they would need to seek town approval prior to saying whether what was being discussed would be okay.

Staff continued discussing the matter with the applicant and reached a point where we mutually agreed that simple, non-permanent changes, such as small fences to delineate outdoor dining areas or small awnings above storefronts, would be considered Insignificant Deviations at most. Larger changes however, such as a 700 square foot cover, likely would be considered Minor Modifications. The applicant's request, however, seeks the ability to make all such changes without them being considered a modification of the permit.

Also of note is that the applicant's request seeks the ability to potentially alter building facades, as well, to create roll-up or garage door openings, Nanawall windows, and similar changes. While such changes ultimately may improve the appearance and / or viability of the site, staff is concerned that allowing such changes without any oversight by Planning staff and / or the Board of Aldermen may provide too much flexibility with respect to what the Board finds acceptable. Accordingly, staff suggests that the Board consider including the following condition in the resolution (if adopted):

*Condition: That the applicant may install, remove, and otherwise change the location of non-structural elements of the outdoor portions of the site without necessitating review under LUO Section 15-64, so long as sidewalks and courtyards remain reasonably open and traversable. Such changes include but are not limited to small awnings, non-structural patio covers up to 200 square feet in size, and fencing, bollards, and similar devices intended to delineate outdoor dining areas. Structural additions and / or larger sized changes exceeding 200 square feet, as well as changes to the façade of a building shall be reviewed by staff. Staff will determine, in accordance with LUO Section 15-64, whether such requests need to be reviewed by the Board as a Minor Modification.*

Attached is a statement from members of the Appearance Commission present during a Thursday, June 6, 2013 meeting (a quorum was not present).

**FISCAL & STAFF IMPACT:** No fiscal impact is associated with the potential approval of this modification. Staff impact involves review time.

**RECOMMENDATION:** Town staff requests that the Board consider the information, deliberate the application, and consider adopting the attached resolution approving the request.