

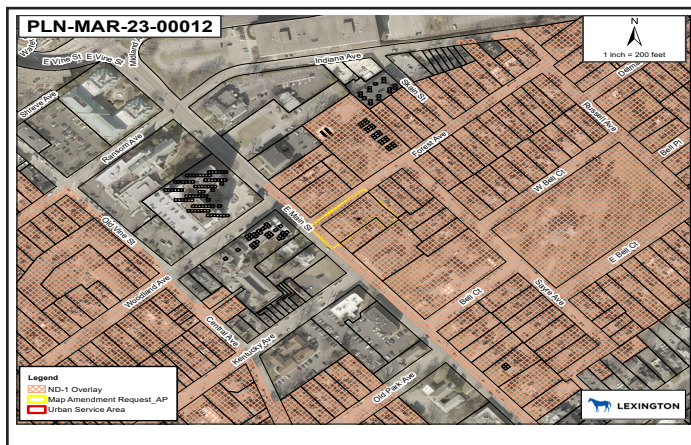
STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-23-00012: 509 E MAIN, LLC

DESCRIPTION OF ZONE CHANGE

Zone	From a restricted Neighborhood Business(B-1) zone
Change:	To a Neighborhood Business (B-1) zone
Acreage:	0.485 net (0.666 gross) acres
Location:	509 E Main Street

EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Properties	B-1	Art Gallery
To North	R-2/R-4	Residential
To East	R-4	Residential
To South	P-1/B-2A	Professional Offices
To West	R-4/B-1	Residential



URBAN SERVICE REPORT

Roads - The subject property is located at the intersection of Forest Avenue, and E Main Street (US 25). E Main Street in the vicinity is a four-lane major arterial roadway. Forest Avenue is a two lane local road.

Curb/Gutter/Sidewalks - Curb, gutter, and sidewalk facilities are present on both E Main Street and Forest Avenue.

Utilities - All utilities, including natural gas, electric, water, phone, cable television, and internet are available in the area, and are able to serve the site.

Storm Sewers - The property is located within the Town Branch watershed. Storm sewers are available to serve the property. There are no FEMA Special Flood Hazard Areas or environmentally sensitive areas on the subject property, or the immediate vicinity.

Sanitary Sewers - The subject property is located within the Town Branch Sewershed. Sanitary sewer treatment is provided by the Town Branch Wastewater Treatment Plant for properties within this portion of the Urban Service Area, which is located on Lisle Industrial Road.

Refuse - The Urban County Government serves this area with refuse collection on Tuesdays. Supplemental service by private refuse haulers is available to supplement existing service, if necessary.

Police - The subject property is located within the Central Sector, and is served by the Central Sector Roll Call Center, which is located on Industry Road, approximately 1.5 miles to the northeast of the subject property. The downtown Police Headquarters is approximately 0.9 miles northwest of the subject property, on East Main Street.

Fire/Ambulance - The nearest fire station (#5) is located about 1/3 mile southwest of the subject property, at the intersection of Woodland Avenue and E Maxwell Street.

Transit - LexTran services are available in the immediate area, with Route #11 featuring stops along E Main St near Kentucky Avenue, Bell Court, and Indiana Avenue.

Parks - The subject property is located one block west of Bell Place Park. Woodland Park is located approximately 1/4 mile south of the subject property, and Thoroughbred Park is located approximately 1/4 mile northwest of the property.

SUMMARY OF REQUEST

The applicant is seeking to remove conditional zoning restrictions to allow for a private social club use.

PROPOSED ZONING



This zone is intended to accommodate neighborhood shopping facilities to serve the needs of the surrounding residential area. Generally, they should be planned facilities and should be located as recommended in the Comprehensive Plan. This zone should be oriented to the residential neighborhood, and should have a roadway system which will be adequate to accommodate the anticipated vehicular traffic.

PROPOSED USE



The applicant is seeking to remove the existing conditional zoning restrictions on the subject property to establish a private club use. The use will consist of a membership-only space that will include restaurant and event space, without live entertainment. The applicant is not proposing any external modifications to the existing 10,047 square-foot structure at this time. The site's 2,000 square-foot third floor residential dwelling unit will remain in operation.

APPLICANT & COMMUNITY ENGAGEMENT



The applicant has indicated that they intend to reach out to the Bell Court Neighborhood Association to discuss the proposal, as well as to discuss potential conditional zoning restrictions to put in place. The applicant should provide greater information regarding those communications and any feedback received from the surrounding communities.

PROPERTY & ZONING HISTORY



The subject property was zoned R-4 prior to the comprehensive rezoning of the City and County in 1969, and contains a single-family residence that was constructed in 1949. The subject property is located in an H-1 Historic Overlay, which places restrictions on modifications to the structure, and is overseen by the Board of Architectural Review. While initially utilized as a single-family residence, a fraternity house use was later established at this location, and operated until 1990, when the property was sold.

The subject property was rezoned to a restricted Neighborhood Business (B-1) zone in 1990 (CZ 90-06) in order to accommodate a proposed antiques store use. During the time of the rezoning, neighborhood interest and involvement resulted in the following zoning restrictions being placed on the property:

- a. *The only uses permitted on the property shall be establishments for the retain sale of merchandise, including only fabrics, furnishings, fixtures, glassware and china, gifts, antiques, and books; and dwelling units.*
- b. *No merchandise for sale will be displayed on the building's front porch or in the front or side yards*
- c. *The parking lot will be screened from Forest Avenue by the brick wall and landscaping shown on the submitted development plan*
- d. *Business signage on the property shall be limited to one freestanding sign, with indirect illumination, not to exceed 3 1/2 feet in height, to be constructed of natural materials, such as wood and be consistent with the architecture of the principal structure.*

The Zee Faulkner Antiques use at this location was replaced with the Crossgate Art Gallery in 1998. In 2002, a four bedroom three bath residential unit was added at this location, which supported the operator of the Crossgate Gallery. Recently, the art gallery relocated to a new location on Old Vine St, leaving the gallery space on the subject property vacant.

CONDITIONAL ZONING RESTRICTION PROCESS



Article 6-7(c) Amendment. Modification, removal or amendment of conditions or restrictions shall be as follows:

1. Restrictions or Conditions Designated by the Urban County Council. The Urban County Council shall have final authority to consider and act upon requests for modification, removal or other amendment of a duly imposed binding restriction or condition so designated by the Council at the time of their adoption.
 - a. Findings Required. The request may be granted by the Council only if it is found that there has been a major change of an economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or condition inappropriate or improper. The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.
 - b. Procedure. The procedure for review, notice and action on requests to modify, remove or amend an imposed restriction or condition shall be the same as for a zone map amendment, except that a full public hearing by the Urban County Council shall be required in all cases. The Council's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action; and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty (30) days after such final action pursuant to KRS 100.347.

ZONING ORDINANCE COMPLIANCE



The applicant opines that the zoning restrictions at this location are no longer appropriate due to economic changes in the industries permitted under the property's current conditional zoning restrictions. The applicant begins by touching on changes to the antique industry in the 33 years since the rezoning of the property, stating that according to a 2019 New York Times article, the antiques market has declined roughly 80% over the last several decades. The applicant then cites an Artnet article that reports a 45-70% drop in the art sales market in just the last 15 years. The applicant indicates that the downturn in this industry led the Crossgate Art Gallery to relocate to an area that was more affordable, and suggests that such a use is no longer capable of supporting and maintaining this historic site. While no statistics were cited, the applicant also opines that the bookseller industry is also in decline.

While the applicant has provided information regarding the antiques, art, and bookseller industries, the applicant should provide information on the other industries included within the list of permitted uses on the site, such as furniture stores. In addition, the applicant should also provide information regarding any physical or economic changes in this portion of the Main Street corridor since the 1990 rezoning that would support their request.

The applicant has indicated that they will seek the neighborhood's input on crafting a new list of conditional zoning restrictions with this application, but have not done so at this time. Public participation and neighborhood outreach played a crucial role in developing the conditional zoning restrictions during the property's initial rezoning. The specifically tailored conditions led to general support from the neighborhood for the 1990 rezoning efforts. In order to ensure that the site will operate harmoniously with the adjoining historic residential area, the applicant should conduct the proposed public outreach, and provide information on the neighborhood's involvement on the proposal of new conditional zoning conditions.

In addition to the use restrictions, the conditional zoning present on the site also requires specific landscaping buffers, prohibits outdoor sales, and prohibits exterior signage. The applicant does not discuss the appropriateness of those conditions in their letter; however, as proposed those conditions would also be removed with the proposed rezoning. Staff finds these conditions remain appropriate, and should remain even if the permitted uses within the current conditional zoning restrictions are altered.

Staff recommends postponement in order to provide the applicant an opportunity to conduct the necessary public outreach, as well as supply supplemental information to bolster their appropriateness argument.

STAFF RECOMMENDS: POSTPONEMENT, FOR THE FOLLOWING REASONS:



1. The applicant should provide information regarding neighborhood outreach regarding new conditional zoning use restrictions at this location.
2. The applicant should provide greater information regarding the economic feasibility of the other permitted uses at this location.
3. The applicant should provide information regarding physical or social changes in this portion of the Main Street corridor since the initial 1990 rezoning.

DAC/TLW
9/05/2023

Planning Services/Staff Reports/MAR/2023/PLN-MAR-23-00012 509 E MAIN STREET, LLC.pdf