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August 7, 2023

Lexington-Fayette Urban County Planning Commission
Lexington-Fayette Urban County Government
101 East Vine Street
Lexington, KY 40507

Conditional Zoning Restriction Modification Request for 509 E. Main Street in the
Neighborhood Business (B-1) Zone.

Dear Members of the Planning Commission:

On behalf of 509 E Main, LLC, (“Applicant”) we have filed a zoning modification request to remove one of the Conditional Zoning Restrictions in the Neighborhood Business (B-1) zone, for the property located at 509 E. Main Street (the “Property”). The Property consists of approximately 0.49 net (0.68 gross) acre.

While it is presently zoned Neighborhood Business (B-1), there is a Conditional Zoning Restriction on the site that limits the permissible B-1 uses to:

The only uses permitted on the property shall be establishments for the retail sale of merchandise, including only fabrics, furnishings, fixtures, glassware, and china, gifts antiques, and books; and dwelling units.

The Applicant requests the removal of this Conditional Zoning Restriction as it is inappropriate to continue restricting the Property to a single retail category as described by the 1990 property owner, Zee Faulkner Antiques. There have been major economic and societal changes to retail sales and in our community’s desire to allow more types of commercial and mixed uses on Lexington’s arterials as discussed below. As such, it is appropriate to remove this condition limiting the Property to a single business use and replace it with a list of prohibited uses that would be inappropriate for the Property in a manner that the Commission is accustomed to doing.

The Applicant is a group of local community members with deep roots in Lexington and extensive ties to the Property and the surrounding neighborhood. The LLC Members include Tyler Bromagen, Field Ladd, William Ryan, and Brian Babbage. Most of the members grew up near the Property or attended Good Shepherd for school and/or church. In fact, Mr. Ladd has lived at the Property and worked at the Cross Gate Gallery for the last 25 years. Their vision is to create a business that can continue the Ladd Family’s stewardship of the Property in a way that brings the use of it into today’s economic and social reality while also enhancing the lives of the Bell Court community.

Prior to discovering the Conditional Zoning Restriction above, Applicant was in the process of renovating the Property for a private member's social club, akin to an establishment like the nearby Lexington Club. It will include restaurant and beverage service (including alcoholic beverages) areas, lounge and small event areas, gallery spaces, and a commercial kitchen. The Property will be operated for profit with members paying an initiation fee in addition to monthly or annual dues. All food and beverage will be charged to members at an additional cost above their membership dues on a monthly basis. The 3rd floor has an existing 4-bedroom, 3-bathroom dwelling unit that will remain, albeit renovated.

It is inarguable that the brick-and-mortar retail sales industry, especially for the types of merchandise currently restricted for the Property, has undergone significant economic changes since 1990. When the Urban County Council implemented this restriction, it never could have anticipated the rise of online sales of goods or the impact it has had in the niche boutique industry. According to an article in the New York Times in 2019, the antiques market has declined roughly 80% over the last several decades and an Artnet article reports a 45-70% drop in the antiquities market in just the last 15 years. In addition, brick-and-mortar booksellers (both corporate and independent) have been decimated over the last thirty years—Barnes and Noble's unprecedented plummet over the last 20 years is glaring evidence of the current reality for booksellers. Zee Faulkner Antiques operated out of the Crossgate property for less than a decade. The Ladd Family recently made the difficult decision to move the Gallery to a less financially burdensome location as the Gallery was not able to maintain the Property in the manner that it deserved with the income associated with the sale of art and other furnishings.

In a sense, the proposed use of the Property is a perfect way to convert an existing property into a true mixed-use structure along a major corridor without having to increase the density or alter the exterior of an H-1 overlay structure in any way. It simply allows for the renovation to keep a historic property functioning and cared for in a more modern world as the current restricted use is no longer financially feasible. These are the types of projects that our Comprehensive Plan strives to create. The Applicant requests to allow the Property to be used for today's neighborhood business uses in such a manner that will complement the surrounding neighborhood as Cross Gate Gallery did during its operation.

While we are not justifying the zone change request on compliance with the Comprehensive Plan, the Applicant firmly believes that this proposal is in keeping with the Goals and Objectives of the Comprehensive Plan. As a policy document for the entire community, the Plan doesn't really lay out goals and objectives relating to this small of a change in types of permitted neighborhood business uses for an existing commercial property. However, many of the ideals discussing smarter utilization of existing properties, preserving historic structures, encouraging more mixed-uses on our corridors, and increasing social offerings in a walkable neighborhood level are at the heart of this application. While small in nature, this change will allow for the betterment of the surrounding area and help make a local business a more successful steward of a historic property. These types of concepts are certainly encouraged by our Plan.

In fact, a quick review of the Corridor PlaceType's description helps to illuminate why the Applicant believes that the existing Conditional Zoning Restriction should be amended due to the change in Lexington's viewpoint on properties along major corridors. Placebuilder describes our Corridors as:

Lexington's major roadways focused on commerce and transportation. The overriding emphasis of Imagine Lexington is significantly overhauling the intensity of the major corridors. The future of Lexington's corridors lies in accommodating the shifting retail economic model by incorporating high density residential and offering substantial flexibility to available land uses.

Due to the historic nature of the structure itself, we are limited from adding additional residential units above the existing 4-bed unit, but Lexington certainly should reevaluate the need to limit an existing mixed-use structure to only be able to sell niche goods. The Property is located on the Main Street corridor in close proximity to the downtown core. Our community policies encouraged bolstering the vitality of new and existing small businesses in corridors such as Main Street and also promoting the adaptive reuse of existing structures – especially historic structures. The Applicant proposal fulfills both of these goals and minimizes any adverse impact by merely promoting a wider array of mixed-use activities already authorized in the underlying zoning for the Property.

This stretch of Main Street is unquestioning a mixed-use and mixed-zone area. The subject B-1 property is adjacent to the residential zones of R-2 to the north, R-4 to the east and west, with commercial zoning of B-1, P-1, and B-2A directly to the south across Main Street. The mix of uses is ever greater than that of the surrounding zoning. There are single-family residences, multi-family units, senior housing, churches, schools, salons, boutiques, restaurants, real estate offices, dentists' offices, and financial services' offices, all within a few parcels of the Property. Any and all of the desired uses of the Property already exists within the neighborhood and in many instances just a parcel or two away.

The Applicant's proposal should not cause any unwanted intrusion into the surrounding neighborhood. Indeed, all of the proposed uses for the Property already exist in close proximity along the Main Street corridor and represents an extension of the types of uses and events that Cross Gate Gallery regularly provided to its clients and the surrounding neighborhood. Cross Gate historically hosted both commercial and non-profit events, had food service, beverage service, along with various forms of entertainment for its guests. These offerings likely qualified as accessory uses to the principal use of the art gallery, but they nonetheless have been commonplace with the Property. The Applicant is simply requesting that these historic uses of the Property not be tied to the retail sale of goods as described by the Conditional Zoning Restriction, instead simply allowing them as the principal permitted B-1 uses associated with Lexington's Neighborhood Business zone. The Property's parking area is already well buffered with a substantial brick wall surrounding the parking area and the Applicant has secured additional off-site parking agreements with nearby commercial users. There will be no changes to the existing exterior lighting and the existing courtyard area has additional brick walls and hedges to damper any noise.

The Applicant commits to working with Staff to develop appropriate conditional zoning restrictions to detail out a set of prohibited uses for the Property that are more appropriate to limit than taking the approach of only allowing a single type of retail sales that was placed on the Property in 1990.

We will be at the September public hearing in order to make a complete presentation of this application and request your favorable consideration.

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Best Regards;

Stoll Keenon Ogden PLLC

A handwritten signature in blue ink, appearing to read "N. Nicholson", is positioned below the firm name.

Nick Nicholson

NN:NN

4882-2967-7426.1