



FAYETTE ALLIANCE

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Brittany M. Roethemeier, J.D.

July 8, 2019

Dear Chair and Board of Adjustment Members,

Please accept this letter on behalf of Fayette Alliance. Founded in 2006, Fayette Alliance is a coalition of citizens dedicated to achieving sustainable growth in Lexington-Fayette County through land use advocacy, education, and promotion. We believe that preserving our unique and productive Bluegrass farmland and advancing innovative, responsible development are essential to our collective success.

In furtherance of our mission, we submit this letter for your consideration with regard to the Conditional Use Permit requested by Horsehoe Bend Vineyards, LLC, DBA Jester's Paddock, PLN-BOA-19-00045 (the "Project").

It is crucial to our city's brand, identity, economic development and overall success that we protect the rural assets that make us both productive and unique. Lexington-Fayette County has made clear its mission to protect the integrity of rural landscapes and scenic corridors from the adverse effects associated with urban and commercial development.¹ In addition, we have recognized the importance of supporting agribusiness that provides hospitality and agricultural related recreation for the public² in certain areas in our community.

The primary intent of the A-R zone, which constitutes the core agricultural lands of Fayette County, is to encourage production agriculture and protect the rural character of the Bluegrass. Small farm wineries are a permitted principal agricultural use in the A-R zone, and a small bistro/restaurant and outdoor events are permitted conditional uses under the same, so long as they are **"clearly incidental and subordinate to"** the winery.³ The statutes regulating these operations fail, however, to address how related the wine production must be to the land itself, the "agricultural nexus", so as to be consistent with the original intent of the zone, or what criteria must be met to show that the conditional uses and services offered are **clearly** incidental and subordinate to the principal use.

¹ 2017 LFUCG Rural Land Management Plan, pg. 17.

² Id., pg. 35-36.

³ LFUCG Zoning Ordinance, Article 8-1(b) and Article 8-1(d)(28).



Dangerous precedent will be set by determining that restaurants and event spaces are clearly incidental and subordinate to a small farm winery whose production is not significantly tied to the land on which it operates. Failing to require a threshold for the relationship between the agricultural related production and the commercial services offered in the A-R zone undermines the intent the zone, removing focus from the importance of agricultural production and preserving our rural assets, and instead opening those assets to conditional, commercial uses which outweigh the agricultural significance of the principal use. Our community must be wary of these types of proposed conditional uses so as not to allow our ordinance to serve as a loophole for businesses that do not meet sufficient standards of agricultural focus. Clarity and refinement in our regulations are needed to be sure we don't set unintended precedents for winery businesses and associated, conditional uses in our rural zones that are not significantly related to the land on which they are situated and as such, not clearly incidental and subordinate to the principal use of the small farm winery.

The particular location for the requested conditional use permit is also governed by the Paris Pike Corridor Small Area Plan ("Plan"), and by Article 24 of our ordinance for the Agricultural and Rural Corridor Overlay Zone, adopting the recommendations of the Plan. The Plan highlights the historical and agricultural significance of the viewsheds of the Paris Pike Corridor and identifies objectives and recommendations to protect open space and scenic vistas in this physically unique area,⁴ raising the standards from that of the underlying zone.

Fayette Alliance supports agribusiness and agritourism in Fayette County and acknowledges both the important impact it has on our economy as well as our citizens' desire to engage with the land that makes us so unique. This type of development, however, must be in careful accordance with the intent of the zoning ordinance, the small area plans adopted to govern our unique areas, and the recommendations of other related entities, in this case the Paris Pike Corridor Commission, who oversees implementation of the Plan. If the Project is determined to fulfill the legal requirements for operation in this location, working to limit the impact the intensive commercial use will have on this Corridor should be a top priority.

Should the Project be approved, Fayette Alliance would recommend that either by terms of the conditional use permit or an agreement of restrictions between the Project, property owner and neighboring property owners and put to record with the Fayette County Clerk, important issues threatening the viewshed of the Paris Pike corridor and neighboring agricultural operations are considered and addressed. These include traffic, lighting, noise, parking, environmental impact and music/entertainment activities—all more significant in a rural area than in an area which normally

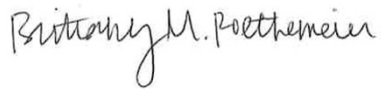
⁴ Paris Pike Corridor Small Area Plan, May 1995, pg. 14-24.

accommodates these types of uses. All risks, where possible, should be required to be reasonably mitigated. Zoning enforcement can be difficult and a lack of compliance, especially in a zone focused primarily on agriculture and sensitive agricultural operations, can have significant and irreversible negative effects.

Protecting the agricultural intent of our rural zone and preserving the natural resources that are the foundation of our community, balanced with agribusiness and agritourism that promote these resources, are essential to achieving our vision of responsible growth in Lexington-Fayette County.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in cursive script that reads "Brittany M. Roethemeier".

Brittany M. Roethemeier, J.D.
Executive Director

Cc: Ashley Greathouse/Director of Conservation, Bluegrass Land Conservancy;
Jim Duncan/Director of Planning;
Jacob Walbourn/McBrayer PLLC