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Elizabeth Knox van Nagell

LFUCG Board of Adjustment
200 East Main Street
Lexington, KY 40507

August 28, 2009

Dear Chairman Brown and Board of Adjustment Members,

My name is Knox van Nagell, and I am here on behalf of The Fayette Alliance. The Fayette Alliance is Lexington's only land-use advocacy organization dedicated solely to preserving our renowned rural landscape in Fayette County, while strengthening the city of Lexington through innovative infill redevelopment and adequate infrastructure.

If responsibly pursued, this growth strategy will improve our city and protect our productive and beautiful farmland—creating a quality of life crucial to Lexington-Fayette County’s economic and environmental success today and beyond.

In furtherance of this mission, The Fayette Alliance joins the LFUCG planning staff in recommending DISAPPROVAL of C-2009-48—a conditional use permit to add a permanent outdoor pavilion to the Bharatiya Temple and Cultural Center at 3050 North Cleveland Road.

If approved, the applicant will construct a 6,000 square foot structure, complete with storage space and bathrooms, to their existing 10,000 square foot church building. The subject property is approximately 10-acres in size, and located outside the Urban Service Boundary in the A-R zone.

This proposal fundamentally violates the requirements of the A-R zone, the Rural Land Management Plan, and KRS 100—jeopardizing the Urban Service Boundary and the Rural Service Area in Lexington-Fayette County.

As such, the conditional use permit should be disapproved for the following reasons.

1. The proposed 6,000 square foot church addition contravenes the 10,000 square foot size limitation of non-agricultural conditional uses in the A-R zone.

According to Article 8-1(d) 19 of the zoning ordinance, a 10,000 square foot church is permitted as a conditional use in the A-R zone if it was established after January 26th 1995.

Further, under certain circumstances, a 10,000 square foot church can construct an additional 10,000 square feet of new structure space if it owned 20 or more contiguous acres of property prior to the adoption of the Rural Land Management Plan on April 8th, 1999.

Here, the applicant built its original 10,000 square foot worship facility after 1995. Moreover, it is located on a 10-acre lot of “Core Agricultural & Rural Land” in the A-R zone, and does not have “twenty contiguous acres” to qualify for the additional 10,000 square feet of structure space under the zoning ordinance.

Therefore, the applicable provisions of the A-R zone, and section III-6 of the Rural Land Management Plan do not authorize C-2009-48. Approval of the applicant’s conditional permit would fundamentally violate the size limitations and requirements of non-agricultural conditional uses in the A-R zone, the “Core-Agricultural & Rural Land” category of the Rural Land Management Plan, and the land-use element of the 2007 Comprehensive Plan.

Simply put, this conditional use permit should be denied in the interests of preventing a dangerous land-use precedent, that if established, could facilitate the widespread construction of large, disruptive non-agricultural facilities throughout the rural area. Such

a trend would irreparably threaten the integrity of our iconic Bluegrass landscape and related \$3 billion signature industries.

2. The Board of Adjustment does not have the authority to approve applicant's conditional use permit.

Under KRS 100.247, the Board of Adjustment does not possess the power to "...permit a use of any land, building, or **structure which is not permitted** by the zoning regulation in the zone in question."

Article 7-6(b) of the LFUCG zoning ordinance describes the Board's power in a similar fashion, and states, "[it] may grant a variance for dimensional requirements only **and may not vary ...the numeric requirements or limits** of the zone".

To approve the applicant's conditional use permit, the Board would need to increase a church's 10,000 square foot size limitation to roughly 16,000 square feet in the A-R zone. Such an act would fundamentally change the numeric limits for non-agricultural structures in the A-R zone—expressly violating the limits of the Board's authority under KRS 100 and the local zoning ordinance.

Therefore, the Board should respect the limits of its legal power and disapprove C-2009-48.

Lexington-Fayette County's rural landscape makes it one of the premier destinations in the world. It anchors our local economy, quality of life, and marketability. Therefore, while The Fayette Alliance respects Bharatiya Temple and its role in the community, we request that you disapprove C-2009-48 in the interests of local land-use law and the protection of our irreplaceable Bluegrass farmland.

Thank you for your consideration, and dedication to responsible land-use planning.

Respectfully,

Knox van Nagell