



300 WEST VINE STREET
SUITE 2100
LEXINGTON, KY 40507-1801
MAIN: (859) 231-3000
FAX: (859) 253-1093

T. BRUCE SIMPSON, JR.
DIRECT DIAL: (859) 231-3621
DIRECT FAX: (859) 259-3521
bruce.simpson@skofirm.com

February 1, 2018

Chairperson William Wilson
and Members of the Planning Commission
Lexington-Fayette Urban County Planning Commission
Lexington-Fayette Urban County Government
101 East Vine Street
Lexington, KY 40507

Re: Zone Map Amendment request for property located at
3801, 3901 and 3955 Harrodsburg Rd. (corner Harrodsburg Rd.
and Man O War)

Dear Chairperson Wilson and
Members of the Planning Commission

We represent "The Fountains of Palomar, LLC" in connection with this Application for a Zone Map Amendment request for property located at 3801, 3901 and 3955 Harrodsburg Road (the "Subject Property"). The property located at 3901 and 3955 Harrodsburg Road consists of 4.17 net and 5.16 gross acres and is currently zoned Neighborhood Business (B-1). This property includes the former Murray's restaurant which closed several years ago and a small retail shopping center. The former Murray's restaurant building is in a dilapidated condition and vacant. The property located at 3801 Harrodsburg Road, consisting of 12.23 acres net and 15.52 gross acres, is zoned Agricultural Urban (A-U) and is owned by the Christ United Methodist Church. The church has also been vacant for several years. The Church has temporarily relocated its services until the property can be sold and a new church can be built elsewhere. The existing church building has significantly deteriorated.

The proposed zoning for the entire subject property is to Highway Service Business (B-3) with restrictions on certain uses (see attached Exhibit "A"). The B-3 zoning designation is also in place for the Beaumont Center commercial property, also adjacent to Harrodsburg Road and located one mile from this proposed development site. The applicant proposes a handsomely

designed neighborhood shopping venue which will have a variety of commercial uses for the Subject Property, including an organic grocery store, hotel and restaurants. There will also be public open spaces where the nearby residents can enjoy dining next to a centrally located water feature (See Exhibit "B").

This development has been carefully designed to connect to the existing Palomar Hills Neighborhood by providing pedestrian and bicycle pathways while eliminating an unnecessary vehicle connection. The development will be enhanced by a landscape plan which is specific to each adjoining property owner. Prior to filing this zone change request, meetings were initiated with each property owner adjacent to the church property for the purpose of individualizing the screening and buffering provisions which are part of this Application. The screening and buffering which exists for that portion of the Subject Property zoned B-1 will remain.

In addition to the meetings with the property owners adjacent to the church, the applicant had separate meetings with the Board of Directors of the Palomar Neighborhood and a large meeting of Palomar Hills homeowners. An even larger meeting with all persons who own property within 500 feet of the subject property was held on January 31, 2018. The purpose of these meetings has been to educate nearby property owners about the proposed zone map amendment request and to respond to any questions or concerns that are raised. These outreach efforts by the applicant will continue until the public hearing is held.

The applicant and its development team have also had several meetings with your planning staff prior to filing this Application. Hopefully, staff approval will be obtained. However, based on our last meeting with the staff, it appears there may be two issues which still need to be resolved. These are: (1) whether the applicant's proposed request has enough density and (2) whether the existing stub street from Glade Lane to the subject property should be connected for vehicular uses.

The applicant has seriously examined the feasibility of increasing the density of the proposed development site. To accommodate such increase in density, the applicant would need to have multi-story structures and the required parking spaces. After evaluating the potential market for such an increase in density, it was determined that there was an insufficient demand for this type of density expansion. Having multi-story structures and uses are not economically sustainable given the size and suburban location of the Subject Property.

The applicant also made a thorough assessment of extending the Glade Lane stub street into the Subject Property. To be sure, such connectivity is generally favored. However, in this particular situation, such vehicular connection, when balanced against the adverse impact on the property owners on Glade Lane, is not justified. Glade Lane was originally developed as a private street. It was not built to public street standards. It was never designed to accommodate vehicular traffic beyond that necessary to serve the residents who live on Glade Lane.

Because of the narrowness of Glade Lane, it is difficult for two oncoming cars to pass one another, particularly when cars are parked on the street. Thus, the applicant believes there

are safer and more adequate vehicular connections depicted on the preliminary development plan which will sufficiently provide vehicle access to this development.

JUSTIFICATION FOR REZONING

As you know, in order to obtain approval of a zone map amendment request, an applicant must submit sufficient evidence at a public hearing that the proposed request satisfies at least one of the three requirements set out in KRS 100.213. In this application, the applicant will establish that: (1) the existing zoning for the Subject Property is inappropriate and the proposed zoning classification is appropriate, and (2) that the request is in agreement with the Comprehensive Plan.

The Existing Zoning is Inappropriate and the Proposed Zoning is Appropriate

The existing zoning of the Subject Property (B-1 and A-U) is inappropriate and the proposed B-3 zoning for the entire property is appropriate. The former Murray's location and the existing small shopping center have struggled for economic survival since this property was rezoned B-1. Murray's closed its doors in 2010. There were several attempts at other restaurant uses but all failed to succeed. The existing restaurant building itself needs to be replaced because of its poor condition.

The small retail space zoned B-1 next to the former Murray's site has had much difficulty in maintaining tenants because of its poor visibility from Harrodsburg Road and not being integrated into a larger retail development which has an anchor store. Too many of the existing retail spaces have remained vacant for extended periods of time. Rezoning all of the Subject Property to a larger unified B-3 zone would allow for a rebranding, increased visibility and appropriate utilization of this portion of the Subject Property.

The existing A-U zoning for the church portion of the Subject Property is inappropriate. The cost to repair the church and its subsequent future maintenance has caused the membership of the church to seek alternative locations in the community. The A-U zone has traditionally been viewed as a "holding zone" for vacant land located inside the urban services area until public facilities and services are present to serve urban uses. Currently, water, gas, electric, storm sewers, sanitary sewers and public roads are available to serve the proposed urban uses for this A-U zoned portion of the Subject Property.

The principal permitted uses in the A-U zone are exactly the same as provided in the Agricultural Rural (A-R) zone for land located outside the urban services area and in the rural areas of Fayette County. This portion of the Subject Property is well within the boundaries of the urban services area. Being located directly adjacent to a single family neighborhood and a small shopping center, this portion of the Subject Property is not suitable, desirable or appropriate for agricultural uses. The church property is appropriate for the urban uses requested in this Application.

This Application is in Compliance with the Comprehensive Plan

This project will play a pivotal role in "place making" for the Palomar neighborhood by adding a desirable mix of nonresidential uses in the southwest quadrant of the Harrodsburg Road/Man-O-War Boulevard intersection. "Complete" neighborhoods, as envisioned by the Comprehensive Plan and widely accepted planning principles, include a mix of residential opportunities and complementary commercial uses which together provide a desirable place to live, work, and play. The adjoining residential area already offers a mix of lot sizes for a variety of single-family detached homes, as well as a significant townhouse component. The proposed development will provide supporting commercial uses such as a small-scale grocery, pharmacy, coffee shop, restaurants and a hotel, all readily accessible from nearby residences by pedestrian and bicycle travel. The commercial area will be open and inviting, and will include water features, walking and bike paths (designed not just to allow non-vehicular travel but to promote it), and attractive public plazas. As noted in the Comprehensive Plan, the three main qualities that "attach people to place" are social offerings (entertainment venues and places to meet), openness (how welcoming the place is), and aesthetics (physical beauty and open space). Each of those attributes is reflected in multiple ways in the uses and their physical arrangement proposed for this development.

This request is in agreement with the Comprehensive Plan. The proposed project meets several of the Goals and Objectives of the Comprehensive Plan detailed below. This well-designed project upholds the Urban Service Area preservation strategy, is appropriate infill, provides a variety of commercial choices which meet several community needs, encourages community interaction through pedestrian connectivity, all while respecting its neighbors with landscaping buffers.

THEME A: GROWING SUCCESSFUL NEIGHBORHOODS

Goal 2: Support Infill and Redevelopment Throughout the Urban Services Area as a Strategic Component Of Growth.

Objectives:

a. Identify areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features whenever possible.

Goal 3: Provide Well Designed Neighborhoods and Communities.

Objectives:

b. Strive for positive and safe interactions in neighborhoods, including, but not limited to, neighborhoods that are connected for pedestrians and various modes of transportation.

THEME C: CREATING JOBS AND PROSPERITY

Goal 1: Support and showcase local assets to further the creation of a variety of jobs.

Objectives:

- a. Strength efforts to develop a variety of job opportunities that lead to prosperity for all.
- e. Encourage the development of appropriate attractions and supporting uses that promote and enhance tourism.

Goal 2: Attract the world's finest jobs, encourage entrepreneurial spirit, and enhance our ability to recruit and retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community.

Objectives:

- d. Provide entertainment and other quality of life opportunities that attract young professionals and a workforce of all ages and talents to Lexington.

THEME D: IMPROVING A DESIRABLE COMMUNITY

Goal 1: Work to achieve an effective and comprehensive transportation system.

Objectives:

- b. Develop a viable network of accessible transportation alternatives for residents and commuters, which may include the use of mass transit, bicycles, walkways, ridesharing, greenways, and other strategies.

THEME E: MAINTAINING A BALANCE BETWEEN PLANNING FOR URBAN USES AND SAFEGUARDING RURAL LAND

Goal 1: Uphold the Urban Services Area Concept.

Objectives:

- a. Continue to monitor the absorption of vacant and underutilized land within the Urban Services Area.

b. Encourage compact, contiguous, and/or mixed-use sustainable development within the Urban Services Area, as guided by market demand, to accommodate future growth needs.

Goal 3: Maintain the Current Boundaries of the Boundaries of the Urban Services Area and Rural Activity Centers; and Create No New Rural Activity Centers.

The proposal is also consistent with the Comprehensive Plan's Land Use Change Consideration for the Urban Services Area:

1. The Change will address a community need, such as ... a neighborhood focal point (and) significant employment opportunities...
2. The proposed land use enhances, and is compatible with, adjacent land uses.
4. The land use will enable the development of critical ... pedestrian, bike, and/or transit connections.
8. The existing utility and transportation networks will accommodate the new land use.
9. Underutilized land should be promoted for greater utility, function and/or residential density.
10. The land use will attract ... further economic prosperity.
11. The proposed use or development will provide a mix of ... land uses.
12. The use will ... provide neighborhood-oriented commercial centers ...
13. The land use should maximize opportunities to accommodate future growth within the Urban Services Area, include land that is underutilized, vacant or planned for a reuse.

Further, the proposal meets several of the key additional considerations for land located outside of the downtown area in the Urban Service Area:

1. A greater intensity of land use should be concentrated along minor and major arterial roadways, and to appropriate quadrants of collector street intersections.
2. Where residential density, and existing infrastructure are adequate to support the use, and the adjacent uses are compatible, the development should create more walkable neighborhoods, neighborhood-oriented businesses and neighborhood amenities.

5. The use shall provide a service deemed beneficial for the immediate area.
6. Developments that improve the livability of existing neighborhoods by adding compatible uses and compatible urban design should be encouraged.
7. Underutilized business land uses should be considered for a possible change to alternative business use...
8. Demonstrate "place-making" in new developments, as outlined previously in the text of the Plan.

Additionally, this project epitomizes one of the Planning Staff's recent points of emphasis in the 2018 Comprehensive Plan update process of increasing the density of commercial projects in close proximity to Lexington's arterial network through infill projects. Finally, the Development Plan reflects a continuation of Glade Court to allow for the existing Palomar Neighborhood to have a pedestrian and bicycle connection to this new commercial development.

In light of all the above, we believe this proposed Zone Map Amendment is in conformity with the Comprehensive Plan and worthy of your favorable recommendation. We look forward to more fully expanding on this request at the March 22, 2018 public hearing.

Very truly yours,

Stoll Keenon Ogden PLLC



William M. Lear, Jr
T. Bruce Simpson

EXHIBIT "A"

HOOVER PROPERTY CONDITIONAL ZONING RESTRICTIONS

1. THE FOLLOWING USES ARE PROHIBITED:
 - (a) PAWN SHOPS
 - (b) ATHLETIC CLUB FACILITIES
 - (c) MINING OF NONMETALLIC MINERALS
 - (d) GASOLINE PUMPS AVAILABLE TO THE PUBLIC WITH OR WITHOUT AN ATTENDANT ON SITE
 - (e) ADULT ARCADES, MASSAGE PARLORS, ADULT BOOKSTORES AND ADULT VIDEO STORES
 - (f) NIGHTCLUBS
 - (g) ESTABLISHMENTS AND LOTS FOR THE DISPLAY, RENTAL, SALE, SERVICE, REPAIR, MINOR REPAIR OF FARM EQUIPMENT, CONTRACTOR EQUIPMENT, AUTOMOBILES, MOTORCYCLES, TRUCKS, BOATS, TRAVEL TRAILERS, MOBILE HOMES OR SUPPLIES FOR SUCH ITEMS, EXCEPT THAT THERE MAY BE PERMITTED AN ELECTRIC CAR DEALERSHIP.
 - (h) BILLIARD OR POOL HALLS; DANCING HALLS, SKATING RINKS; MINIATURE GOLF OR PUTTING COURSES AND BOWLING ALLEYS
 - (i) TATTOO PARLORS
 - (j) CARNIVALS, SPECIAL EVENTS, FESTIVALS AND CONCERTS.
 - (k) COMMERCIAL FARM MARKETS AND MARKET GARDENS
 - (l) SELF-SERVICE LAUNDRY
2. THERE SHALL BE A FIFTEEN (15) FOOT LANDSCAPE BUFFER AREA ALONG THE REAR OF THE PROPERTY LINE WHICH EXCLUDES ANY STRUCTURES, INCLUDING MECHANICAL UNITS AND THE LIKE.
3. FREE-STANDING SIGNAGE SHALL BE IN ACCORDANCE WITH ARTICLE 17 OF THE ZONING ORDINANCE AND SHALL BE LIMITED TO THE SIGNAGE SHOWN ON AND APPROVED BY THE PLANNING COMMISSION ON THE FINAL DEVELOPMENT PLAN.
4. EXISTING TREES ON THE SITE SHALL BE PRESERVED EXCEPT FOR DISEASED OR DYING TREES.
5. THERE SHALL BE AN EIGHT (8) FOOT OR HIGHER WALL ADJACENT TO THE PALOMAR COVE SUBDIVISION ADJACENT TO ANY NEW DEVELOPMENT ON THE PROPERTY.
6. BUILDING HEIGHT ON THE SITE SHALL BE RESTRICTED TO ONE STORY

EXHIBIT "B"



Lakewood Road

Man O War Boulevard

