

ORDINANCE NO. 123 -2017

AN ORDINANCE CHANGING THE ZONE FROM A NEIGHBORHOOD BUSINESS (B-1) ZONE TO A PLANNED SHOPPING CENTER (B-6P) ZONE, FOR 5.78 NET (7.58 GROSS) ACRES, FOR PROPERTY LOCATED AT 4379 OLD HARRODSBURG ROAD. (COMPASS CAPITAL, LLC; COUNCIL DISTRICT 10).

WHEREAS, at a Public Hearing held on June 22, 2017 a petition for a zoning ordinance map amendment for property located at 4379 Old Harrodsburg Road from a Neighborhood Business (B-1) zone to a Planned Shopping Center (B-6P) zone for 5.78 net (7.58 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 8-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 4379 Old Harrodsburg Road from a Neighborhood Business (B-1) zone to a Planned Shopping Center (B-6P) zone for 5.78 net (7.58 gross) acres, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following land use restrictions shall apply for the subject property via conditional zoning:

A. Landscape Buffers (in addition to the requirements of Article 18 of the Zoning Ordinance)

- i. Along the northwestern and northeastern boundaries, a 20-foot wide landscape buffer shall be provided.
- ii. Included within the buffer along the northwestern boundary with Palomar Hills Subdivision shall be an eight-foot (8') tall brick wall, except that the wall shall allow a fifty-foot (50') wide gap where Palmetto Drive adjoins the property.
- iii. Included in the landscape buffer shall be

evergreen trees planted 20-foot (20') on center along the northeastern boundary (shared A-U zone boundary).

B. Use Conditions

i. Lighting

a. All outdoor lighting shall be directed downward and away from adjoining land that is residentially and agriculturally zoned; and the light source shall be shielded so as to prevent direct lighting of the adjoining Palomar Hills Subdivision or the historic South Elkhorn Christian Church.

ii. Prohibited Uses

- a. Self-service laundries or laundry pick-up stations
- b. Self-service car washes
- c. Trailer, truck and/or equipment rental
- d. Outdoor miniature golf or putting courses
- e. Circuses and carnivals
- f. Arcades, including pinball and electronic games
- g. Mining
- h. Automobile service station, automobile and vehicle refueling stations and gasoline pumps available to the public without an employee on the premises
- i. Recycling drop-off centers
- j. Rehabilitation homes

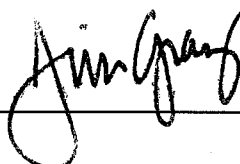
The land use and buffering restrictions, most of which have been in existence for the past decade, are necessary and appropriate for the subject property in order to protect the adjoining residential area and historic church from the potential negative effects of more intensive non-residential uses on the subject property.

Section 3 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: August 31, 2017

MAYOR



ATTEST


CLERK OF URBAN COUNTY COUNCIL

Published: September 7, 2017-1t

0845-17:TWJ:X:\Cases\PLANNING\17-LE0001\LEG\00582196.DOCX

COMPASS CAPITAL, LLC &
TCSS2 LLC ATTN: WILLIAM J HALL
HALL WILLIAM J TTE WILLIAM J HALL LIVING TRUST
WILLIAM J HALL LIVING TRUST DATED 8-21-15
DSW ONE LLC C/O DAVID S WILLIAMS-SNOW CAPITAL
Zone Change from A-U to B-6P
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED IN THE NORTHWEST QUADRANT OF THE INTERSECTION OF OLD HARRODSBURG ROAD AND BOWMAN MILL ROAD IN SOUTHWEST FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT in the centerline of Harrodsburg Road (U.S. 68) approximately 938 feet east of the Military Pike and Harrodsburg Road intersection; thence with the said centerline for the following two (2) calls: along an arc 197.07 feet to the left, having a radius of 2545.36 feet, the chord of which is South 75 Degrees 07 Minutes 25 Seconds West for a distance of 197.02 feet to a point; thence along an arc 291.43 feet to the left, having a radius of 1541.99 feet, the chord of which is South 67 Degrees 03 Minutes 25 Seconds West for a distance of 291.00 feet to a point in the proposed zone line, thence with the proposed zone line for the following ten (10) calls: North 31 Degrees 50 Minutes 47 Seconds West a distance of 269.44 feet; thence South 65 Degrees 09 Minutes 53 Seconds East a distance of 49.71 feet to a point; thence South 79 Degrees 48 Minutes 14 Seconds East a distance of 32.40 feet to a point; thence South 88 Degrees 32 Minutes 25 Seconds East a distance of 29.87 feet to a point; thence North 88 Degrees 46 Minutes 52 Seconds East a distance of 72.65 feet to a point; thence South 69 Degrees 01 Minutes 20 Seconds East a distance of 29.95 feet to a point; thence South 76 Degrees 24 Minutes 45 Seconds East a distance of 28.71 feet to a point; thence North 82 Degrees 03 Minutes 09 Seconds East a distance of 91.35 feet to a point; thence North 81 Degrees 07 Minutes 26 Seconds East a distance of 128.78 feet to a point; thence North 80 Degrees 02 Minutes 32 Seconds East a distance of 150.60 feet to a point; thence South 00 Degrees 36 Minutes 24 Seconds West a distance of 80.11 feet **TO THE POINT OF BEGINNING.**

The above described parcel contains 1.52 acres Gross and 0.00 acres Net.

C:\Users\TWade\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\KIWU00VY\A-U TO B-6P.DOCX

COMPASS CAPITAL, LLC &
TCSS2 LLC ATTN: WILLIAM J HALL
HALL WILLIAM J TTE WILLIAM J HALL LIVING TRUST
WILLIAM J HALL LIVING TRUST DATED 8-21-15
DSW ONE LLC C/O DAVID S WILLIAMS-SNOW CAPITAL
Zone Change from B-1 to B-6P
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED IN THE NORTHWEST QUADRANT OF THE INTERSECTION OF OLD HARRODSBURG ROAD AND BOWMAN MILL ROAD IN SOUTHWEST FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT in the northeast property corner of consolidated Parcels 1 and 2 as recorded on Plat Cabinet M, Slide 613 in the Offices of the County Clerk of Fayette County, Kentucky; thence with the eastern property line South 00 Degrees 36 Minutes 24 Seconds West a distance of 355.75 feet to a point in the proposed zone line; thence with the proposed zone line for the following ten (10) calls: South 80 Degrees 02 Minutes 32 Seconds West a distance of 150.60 feet to a point; thence South 81 Degrees 07 Minutes 26 Seconds West a distance of 128.78 feet to a point; thence South 82 Degrees 03 Minutes 09 Seconds West a distance of 91.35 feet to a point; thence North 76 Degrees 24 Minutes 45 Seconds West a distance of 28.71 feet to a point; thence North 69 Degrees 01 Minutes 20 Seconds West a distance of 29.95 feet to a point; thence South 88 Degrees 46 Minutes 52 Seconds West a distance of 72.65 feet to a point; thence North 88 Degrees 32 Minutes 25 Seconds West a distance of 29.87 feet to a point; thence North 79 Degrees 48 Minutes 14 Seconds West a distance of 32.40 feet to a point; thence North 65 Degrees 09 Minutes 53 Seconds West a distance of 49.71 feet to a point; thence North 31 Degrees 50 Minutes 47 Seconds West a distance of 33.60 feet to a point; thence North 34 Degrees 52 Minutes 07 Seconds West a distance of 149.52 feet to a point in the northern property line; thence with the said property line for the following two (2) calls: North 45 Degrees 46 Minutes 54 Seconds East a distance of 452.50 feet to a point; thence South 75 Degrees 59 Minutes 35 Seconds East a distance of 395.86 feet **TO THE POINT OF BEGINNING.**

The above described parcel contains 6.06 acres GROSS and 5.78 acres NET.

RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **PLN-MAR-17-00020: COMPASS CAPITAL, LLC** – a petition for a zone map amendment from a Neighborhood Business (B-1) zone to a Planned Shopping Center (B-6P) zone, for 5.78 net (7.58 gross) acres, for property located at 4379 Old Harrodsburg Road. (Council District 10)

Having considered the above matter on **June 22, 2017**, at a Public Hearing, and having voted **8-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

1. The existing Neighborhood Business (B-1) zone is no longer appropriate, and the proposed Planned Shopping Center (B-6P) zone is appropriate for the subject property, for the following reasons:
 - a. The subject property meets the definition of a “neighborhood shopping center” as established in Article 12 of the Zoning Ordinance. It is greater than three acres in size and provides for the “sale of convenience goods ... and personal services.”
 - b. The subject property’s parking requirements can be standardized and the parcel can be utilized in a more efficient manner with the proposed B-6P zone.
 - c. Due to the property’s topographic situation related to the nearby Harrodsburg Road, and due to the established development pattern, the B-6P zone and designation as a shopping center is more appropriate than the allowable collection of independent businesses possible in the existing B-1 zone.
2. This recommendation is made subject to the approval and certification of **PLN-MJDP-17-00047: South Elkhorn Village**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission’s approval.
3. **Under the provisions of Article 6-7 of the Zoning Ordinance, the following prohibited uses and landscape buffers are recommended for the subject property via conditional zoning:**
 - A. **Landscape Buffers** (in addition to the requirements of Article 18 of the Zoning Ordinance)
 - i. Along the northwestern and northeastern boundaries, a 20-foot wide landscape buffer shall be provided.
 - ii. Included within the buffer along the northwestern boundary with Palomar Hills Subdivision shall be an eight-foot (8’) tall brick wall, except that the wall shall allow a fifty-foot (50’) wide gap where Palmetto Drive adjoins the property.
 - iii. Included in the landscape buffer shall be evergreen trees planted 20-foot (20’) on center along the northeastern boundary (shared A-U zone boundary).
 - B. **Use Conditions**
 - i. **Lighting**
 - a. All outdoor lighting shall be directed downward and away from adjoining land that is residentially and agriculturally zoned; and the light source shall be shielded so as to prevent direct lighting of the adjoining Palomar Hills Subdivision or the historic South Elkhorn Christian Church.
 - ii. **Prohibited Uses**
 - a. Self-service laundries or laundry pick-up stations
 - b. Self-service car washes
 - c. Trailer, truck and/or equipment rental
 - d. Outdoor miniature golf or putting courses
 - e. Circuses and carnivals
 - f. Arcades, including pinball and electronic games
 - g. Mining

- h. Automobile service stations, automobile and vehicle refueling station, and gasoline pumps available to the public without an employee on the premises
- i. Recycling drop-off centers
- j. Rehabilitation homes

The land use and buffering restrictions, most of which have been in existence for the past decade, are necessary and appropriate for the subject property in order to protect the adjoining residential area and historic church from the potential negative effects of more intensive non-residential uses on the subject property.

ATTEST: This 25th day of July, 2017.


Secretary, Jim Duncan

WILLIAM WILSON
CHAIR

K.R.S. 100.211(7) requires that the Council take action on this request by September 20, 2017.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Jacob Walbourn, attorney.**

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (8) Berkley, Cravens, Mundy, Owens, Penn, Plumlee, Richardson, and Wilson

NAYS: (0)

ABSENT: (2) Brewer and Drake

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **CONDITIONAL APPROVAL** of **PLN-MAR-17-00020** carried.

Enclosures: Application
Plat
Staff Report
Applicable excerpts of minutes of above meeting

MAP AMENDMENT REQUEST (MAR) APPLICATION**1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)****Applicant:**

COMPASS CAPITAL, LLC, 2285 EXECUTIVE DR, STE 310, LEXINGTON, KY 40505

Owner(s):

COMPASS CAPITAL, LLC, 2285 EXECUTIVE DR, STE 310, LEXINGTON, KY 40505

DSW ONE, LLC, 2000 GEORGETOWN DR, STE 200, SEWICKLEY, PA 15143

TCSS2, LLC, 250 E MAIN ST, STE 3000, LEXINGTON, KY 40507

WILLIAM J HALL LIVING TRUST

Attorney:

Jacob Walbourn, McBrayer McGinnis Leslie and Kirkland, 201 E Main Street, #900, Lexington, KY 40507 PH: 231-8780

2. ADDRESS OF APPLICANT'S PROPERTY

4379 OLD HARRODSBURG RD, LEXINGTON, KY

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

| Zoning | Existing Use | Requested | | Acreage | |
|--------|-----------------|-----------|-----------------|---------|-------|
| | | Zoning | Use | Net | Gross |
| B-1 | Shopping Center | B-6P | Shopping Center | 5.78 | 6.06 |
| A-U | Right-of-way | B-6P | Right-of-way | 0.00 | 1.52 |

4. EXISTING CONDITIONS

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
| a. Are there any existing dwelling units on this property that will be removed if this application is approved? | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |
| b. Have any such dwelling units been present on the subject property in the past 12 months? | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |
| c. Are these units currently occupied by households earning under 40% of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing. | <input type="checkbox"/> YES <input type="checkbox"/> NO |

5. URBAN SERVICES STATUS (Indicate whether existing, or how to be provide

| | |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Roads: | LFUCG |
| Storm Sewers: | LFUCG |
| Sanity Sewers: | LFUCG |
| Refuse Collection: | LFUCG |
| Utilities: | <input checked="" type="checkbox"/> Electric <input checked="" type="checkbox"/> Gas <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable |



JACOB C. WALBOURN
jwalbourn@mmlk.com



201 EAST MAIN STREET, SUITE 900
LEXINGTON, KY 40507
859.231.8780 EXT. 102

May 1, 2017

Mr. William Wilson, Chairman
Lexington-Fayette Urban County Planning Commission
200 East Main Street
Lexington, Kentucky 40507

RE: Zone Change Application from B-1 to B-6P
4379 Old Harrodsburg Road

Dear Chairman Wilson:

Please be advised that we represent Compass Capital LLC ("Compass"), which is the owner of South Elkhorn Village, located on Old Harrodsburg Road, in Lexington. My client desires to rezone the above-mentioned development from its current Neighborhood Business (B-1) zone to the Planned Shopping Center (B-6P) zone. It is not my client's intention to make substantial on-the-ground changes, but rather, to be able to deploy signage to ensure the long term success of the development. Additionally, we believe rezoning may allay the off-site parking situation currently faced by this development.

As the Commission is aware, you recently approved a B-1 development for the Ethington Property, located just a few hundred feet from the South Elkhorn Village development. While we certainly are mindful that development of vacant and underutilized parcels is of paramount importance for the future of Lexington, my client does have some concern regarding the apparent competitive disadvantage the existing B-1 development will face when the Ethington B-1 project develops. Specifically, South Elkhorn Village, following the Commonwealth's improvements to Harrodsburg Road in the early 2000s, sits below grade of Harrodsburg Road, and is not directly accessible from it. Instead, visitors to South Elkhorn Village must access it via Military Pike or Old Higbee Mill Road. Alternatively, the Ethington B-1 development will be at or near grade with Harrodsburg Road, and thus, much more highly visible. In reviewing ways to increase the visibility of South Elkhorn Village, we realized that B-1 signage does not permit tenants to be identified on the "shopping center" signage. This stands in contrast to the B-6P signage regulations, which does permit it. Accordingly, my client has determined to pursue a rezoning of the subject property.

We believe this rezoning would aid South Elkhorn Village in two key ways. First, as aforementioned, businesses may place panels on a permitted business sign for development, whereas the same is not permissible in B-1. For B-1 developments at grade, this problem is allayed by the ability to deploy wall signage, advertising individual tenant businesses. However, for South Elkhorn Village, wall signage is less effective because it is not as visible

from Harrodsburg Road. The signage allowed in the B-6P zone would ensure that existing business are visible, and are not as competitively disadvantages from their soon-to-be neighboring counterparts. Further, we believe that the B-6P parking regulations would allow all required parking to take place on the project site, as opposed to having an off-site parking lease. This, in turn, will increase the viability of the development.

It is important to emphasize that there will be no “on the ground” changes to the shopping center, aside from minor alterations to signage. No significant redevelopment is proposed. While South Elkhorn Village may not meet every element of B-6P regulation as currently constructed, we believe the development is in accord with the intent of the B-6P zone for a neighborhood shopping center. Indeed, South Elkhorn Village has served the residents of the area for many years. We believe this request is in accord with the 2013 Comprehensive Plan. Our conclusion that this rezoning request is in agreement with the 2013 Comprehensive Plan (hereinafter “Comp Plan”) is based on the following:

Comprehensive Plan

Growing Successful Neighborhoods

Theme A of the Comp Plan embraces several goals regarding residential life in Fayette County. We believe this redevelopment proposal embraces Goal 3 articulated in Theme A of the Comp Plan.

Provide well designed neighborhoods and communities. The Comp Plan calls not only for well-designed new developments, but to provide enhancements to existing neighborhoods to increase their desirability (Comp Plan, p. 38). We believe permitting this zone change will allow South Elkhorn Village to continue to thrive as a shopping destination for Palomar area residents. Allowing the development to deploy signage visible to the roadway preserves the viability of the development, which has served the neighborhood for many years. Because the applicant is not proposing “on the ground” alterations, the character of the community will be maintained.

Protecting the Environment

Theme B of the Comp Plan embraces goals related to protecting the environment in Fayette County. We believe this proposal embraces elements of Theme B of the Comp Plan.

Reduce Lexington-Fayette County's carbon footprint. The Comp Plan (p. 50) notes that exhaust from motor vehicles contributes about one-third of our air pollutants. Because of this site's location, maintaining its viability may mean that reliance on automobile transportation may be reduced. The site is within walking distance or a short bike ride of the Palomar neighborhood, and has functioned as a neighborhood shopping center (albeit a B-1, rather than B-6P version) for many years. As new construction continues in the area,

businesses will be needed to serve both the existing and new populations. The Ethington property has recently been rezoned to add housing stock to the area, as have properties in the Old Higbee Mill vicinity. There have been numerous apartment complexes also constructed in the area in recent history. Most, if not all, of these development would be within walking distance, or a short bike ride, from South Elkhorn Village.

Creating Jobs and Prosperity

Theme C of the Comp Plan embraces goals related to continued economic prosperity in Fayette County. We believe this redevelopment proposal embraces elements of Theme C of the Comp Plan.

Support and showcase local assets to further the creation of a variety of jobs. The Comp Plan notes that a variety of employment is necessary to lead to prosperity for all Lexington residents. Further, the Comp Plan emphasizes the importance of living near your workplace (Comp Plan, p. 74). While the jobs at South Elkhorn Village are primarily service jobs, such jobs are vital to our community. Additionally, these jobs are located in close proximity to several neighborhoods. Further, these employment opportunities currently exist, and the applicant's application is merely to continue to preserve these jobs, rather than altering the landscape of the area to create new ones.

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. One way to attract new jobs and young professionals to Lexington is by providing shopping, dining, and other quality of life opportunities that will bring a workforce of all ages and talents to the city. The continued viability of the South Elkhorn Village provides amenities for the Palomar neighborhood, one of the more desirable neighborhoods in Lexington. Also, small shopping centers are often a location where the entrepreneurial spirit is in its purest form, and where commercial ideas and business models are tested. Maintaining these centers, in appropriate locations, provide opportunity for Lexington's small business owners and entrepreneurs.

Maintaining a Balance Between Planning for Urban Uses and Safeguarding Rural Land

Theme E of the Comp Plan embraces goals related to preserving rural land while encouraging growth. We believe this redevelopment proposal embraces elements of Theme E of the Comp Plan.

Uphold the Urban Services Area concept. This goal requires close monitoring of the absorption of vacant or under-utilized land in the Urban Service Area as well as encouraging the compact, contiguous, and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs. This request preserves the viability of a neighborhood shopping center that, due to physical changes to Harrodsburg Road, would be a challenging infill site. The center is below grade of the dominant roadway, and

additionally, faces difficulty from the nearby creek. The continued sustainability of this center may reduce the need for future retail shopping in the area. Maintenance of the Urban Service Boundary cannot be merely about creating new infill developments, but also about maintaining the commercial and economic viability of existing developments. The shopping center's owners have attempted to identify a manner to protect their investment that does not detrimentally impact their neighbors.

Conditional Zoning Restrictions

We are cognizant that, during the prior zone change processes involving this property, that certain conditional zoning restrictions were imposed by the Planning Commission. We would propose that the conditions imposed regarding buffering and lighting should remain in effect to protect the neighborhood.

Further, we are cognizant that the B-6P zone does permit some uses that may be too intense for this site and the adjoining residential neighborhood. We would propose restricting the following uses:

- Self-service car wash
- Recycling centers
- Mining
- Rehabilitation homes

We believe these uses would be too intense for the site.


Conclusion

As is evidenced by the foregoing, this plan is in agreement with the 2013 Comprehensive Plan. Allowing what is essentially an administrative reclassification of a property for its continued economic viability demonstrates the kind of commitment to innovative zoning emphasized by the Comp Plan. The neighborhood will notice exceedingly few changes, and the goal of the application is merely to increase the visibility of tenants of the existing shopping center. The applicant is not contemplating "on the ground" alterations that would impact the neighborhood in any detrimental way.

[MCBRAYER]

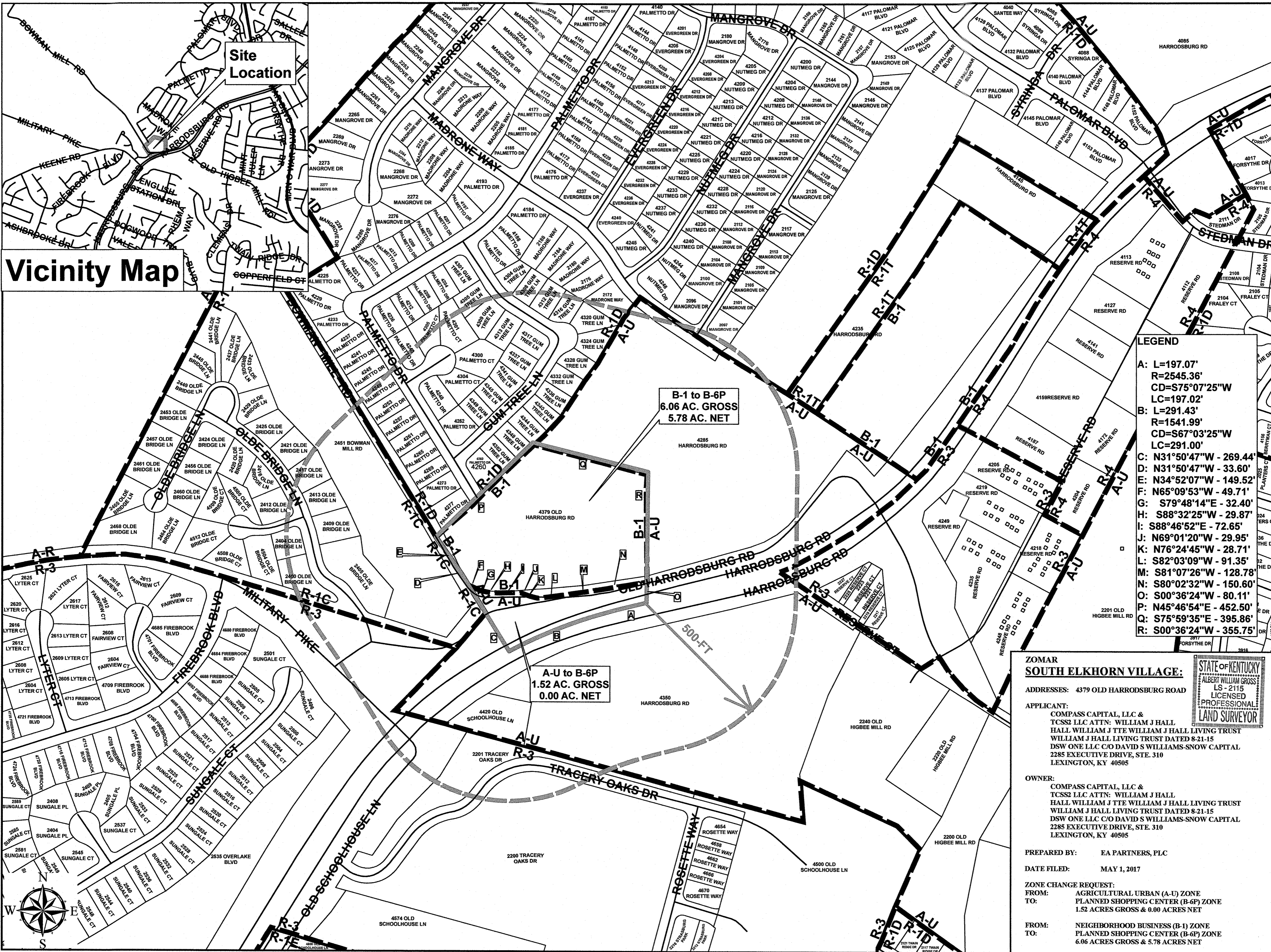
Based on the foregoing, we respectfully request approval of our application as submitted. We look forward to presenting this application to you and discussing it with you. Thank you for your consideration of this request.

Sincerely,


Jacob C. Walbourn
Counsel for Compass Capital, LLC

JCW/klm
Enclosures

4812-6822-4839, v. 1



Vicinity Map

Site Location

LEGEND

A: L=197.07'
R=2545.36'
CD=S75°07'25"W
LC=197.02'

B: L=291.43'
R=1541.99'
CD=S67°03'25"W
LC=291.00'

C: N31°50'47"W - 269.44'
D: N31°50'47"W - 33.60'
E: N34°52'07"W - 149.52'
F: N65°09'53"W - 49.71'
G: S79°48'14"E - 32.40'
H: S88°32'25"W - 29.87'
I: S88°46'52"E - 72.65'
J: N69°01'20"W - 29.95'
K: N76°24'45"W - 28.71'
L: S82°03'09"W - 91.35'
M: S81°07'26"W - 128.78'
N: S80°02'32"W - 150.60'
O: S00°36'24"W - 80.11'
P: N45°46'54"E - 452.50'
Q: S75°59'35"E - 395.86'
R: S00°36'24"W - 355.75'

B-1 to B-6P
6.06 AC. GROSS
5.78 AC. NET

A-U to B-6P
1.52 AC. GROSS
0.00 AC. NET

ZOMAR
SOUTH ELKHORN VILLAGE:

ADDRESSES: 4379 OLD HARRODSBURG ROAD

APPLICANT:
COMPASS CAPITAL, LLC &
TCSS2 LLC ATTN: WILLIAM J HALL
HALL WILLIAM J TTE WILLIAM J HALL LIVING TRUST
WILLIAM J HALL LIVING TRUST DATED 8-21-15
DSW ONE LLC C/O DAVID S WILLIAMS-SNOW CAPITAL
2285 EXECUTIVE DRIVE, STE. 310
LEXINGTON, KY 40505

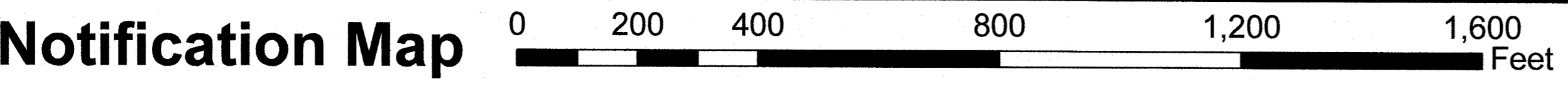
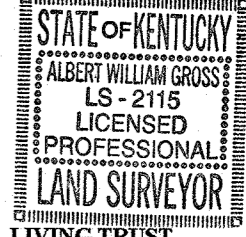
OWNER:
COMPASS CAPITAL, LLC &
TCSS2 LLC ATTN: WILLIAM J HALL
HALL WILLIAM J TTE WILLIAM J HALL LIVING TRUST
WILLIAM J HALL LIVING TRUST DATED 8-21-15
DSW ONE LLC C/O DAVID S WILLIAMS-SNOW CAPITAL
2285 EXECUTIVE DRIVE, STE. 310
LEXINGTON, KY 40505

PREPARED BY: EA PARTNERS, PLC

DATE FILED: MAY 1, 2017

ZONE CHANGE REQUEST:
FROM: AGRICULTURAL URBAN (A-U) ZONE
TO: PLANNED SHOPPING CENTER (B-6P) ZONE
1.52 ACRES GROSS & 0.00 ACRES NET

FROM: NEIGHBORHOOD BUSINESS (B-1) ZONE
TO: PLANNED SHOPPING CENTER (B-6P) ZONE
6.06 ACRES GROSS & 5.78 ACRES NET



STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-17-00020: COMPASS CAPITAL, LLC

DESCRIPTION

| Zone Change: | <u>Request</u> | <u>Acreage</u> | | |
|---------------------|-----------------------|-----------------------|-------------------|---------------------|
| | <u>From</u> | <u>To</u> | <u>Net</u> | <u>Gross</u> |
| | A-U | B-6P | 5.78 | 6.06 |
| | B-1 | R-1T | <u>0.00</u> | <u>1.52</u> |
| | | TOTAL: | 5.78 | 7.58 |

Location: 4379 Old Harrodsburg Road

EXISTING ZONING & LAND USE

| <u>Properties</u> | <u>Zoning</u> | <u>Existing Land Use</u> |
|--------------------------|----------------------|-----------------------------------|
| Subject Properties | A-U & B-1 | Neighborhood Shopping Center |
| To North | A-U & R-1D | Single-Family Residential, Church |
| To East | A-U | Church |
| To South | A-U | Agricultural |
| To West | R-1C | Single-Family Residential |

URBAN SERVICES REPORT

Roads – The subject property is bordered to the west by Bowman Mill Road, and to the south by both Old Harrodsburg Road and Harrodsburg Road (US 68). Bowman Mill and Old Harrodsburg Road are both two-lane rural roadways that provide direct access to the existing neighborhood shopping center on the subject property. Harrodsburg Road is a major five-lane, divided highway at this location, and is one of two major commuter routes connecting Jessamine and Fayette Counties. It continues northward into downtown and becomes South Broadway. Old Harrodsburg Road, since the highway was relocated several years ago, acts as a frontage road to serve the shopping center and the adjacent church. No roadway improvements are planning with the proposed zone change.

Curb/Gutter/Sidewalks – Old Harrodsburg Road and Bowman Mill Road do not have curb, gutter or sidewalks along the frontage of this property. Harrodsburg Road was re-constructed and widened in this immediate area without these facilities several years ago by the Kentucky Transportation Cabinet, although they were discussed locally at the time. A shared-use trail is planned to pass underneath Harrodsburg Road, along the South Elkhorn Creek.

Storm Sewers – The subject property is located within the South Elkhorn watershed. Storm sewers and basins are not always required for development located adjacent to a creek, but stormwater management is still necessary to protect water quality, and should be completed by the developer in accordance with the LFUCG Engineering Manuals. A portion of the subject property is located within a FEMA Special Flood Hazard Area (floodplain) associated with South Elkhorn Creek, which flows northward under Harrodsburg Road and parallel to Bowman Mill Road to the south and west of this site. There are known and documented flooding problems that occur along the South Elkhorn Creek and its tributaries in the immediate area. No physical changes to the commercial building layout are anticipated currently, but any possible future development will not be allowed to exacerbate any known flooding problems on the site or nearby.

Sanitary Sewers – This property is located in the South Elkhorn sewershed and is served by the West Hickman Wastewater Treatment Facility, in northern Jessamine County. The subject property is currently served by sanitary sewers. The South Elkhorn pump station, located along Bowman Mill Road at the

Urban Service Area boundary, was recently improved after experiencing periodic overflow problems during peak flow times in the past.

Refuse – This area is served by the Urban County Government with solid waste collection on Mondays. Commercial business often augment this service with additional collection by private providers.

Police – The nearest police station is the West Sector Roll Call Center, located approximately six miles to the north of the subject property on Old Frankfort Pike, near New Circle Road.

Fire/Ambulance – The nearest fire station (#20) is located on Arrowhead Drive at Harrodsburg Road, two miles northeast of the subject property.

Utilities – All utilities are available to serve the site, including natural gas; electric; streetlights; telephone; water; and cable television service.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The Plan's mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner proposes a rezoning to the South Elkhorn Village neighborhood shopping center in order to facilitate increased signage and reduced parking requirements for the center. No physical changes to the subject property are planned, other than a new shopping center identification sign, by the petitioner.

CASE REVIEW

The petitioner has requested a zone change from a Neighborhood Business (B-1) zone to a Planned Shopping Center (B-6P) zone for approximately five net acres of property, located at the intersection of Old Harrodsburg and Bowman Mill Roads.

The subject property is located adjacent to Old Harrodsburg Road, south of the Palomar Subdivision, which is generally located southwest of the Man O' War Boulevard and Harrodsburg Road intersection in southwest Fayette County. The subject site is visible from Harrodsburg Road (US 68), but is situated topographically lower than the roadway by almost 10 feet. The subject property has long been home to Ramsay's restaurant at what was historically a rural cross-roads location in the county. The shopping center was more fully developed in 2006 following a successful rezoning for the rear 1.62 acres (MAR 2004-43: Elkhorn Development Company including conditional zoning restrictions). Since 2006, the small neighborhood shopping center has experienced numerous tenant changes, increased parking requirements due to the changes in tenant mix (more restaurants and less retail space), and now, expected direct competition within "a stone's throw" of the site (to the northeast).

The subject property is bound to the north by the Palomar Subdivision, to the east by the historic South Elkhorn Christian Church, to the south by a small family farm (across Harrodsburg Road), and to the west by the Willow Creek Estates Subdivision (across Bowman Mill Road and South Elkhorn Creek). A rezoning to the northeast of subject property, on the other side of the church, was accomplished earlier this year to permit up to 37,000 square feet of neighborhood business land uses, although the development has not yet been granted approval for the final development plan (PLN-MAR16-00003: Taylormade Real Estate (AMD)).

The petitioner is requesting a rezoning from the existing B-1 zone to a Planned Shopping Center (B-6P) zone to improve the existing shopping center's viability. The petitioner contends that the B-6P zone is beneficial to the site for two primary reasons. First, the freestanding signage permitted in the B-1 zone can be a maximum of 50 square feet (one freestanding sign per frontage), whereas the B-6P zone permits a maximum of 75 square feet (one freestanding sign per frontage). The B-6P zone also allows for tenant panels to be displayed on the shopping center identification sign, whereas the B-1 zone does not explicitly

permit this type of signage (prohibition on such tenant panels is a long-standing Building Inspection interpretation of the sign ordinance). Second, the B-6P zone regulates parking spaces for the entire shopping center based on a static ratio (for neighborhood shopping centers it is a 2:1 ratio of vehicular use area to building area), which does not fluctuate with changes in tenants. This is much less complicated and cumbersome than the current calculation and recalculation necessary for each and every tenant within a B-1 zoned development.

The petitioner opines that the requested zone change is in agreement with the 2013 Comprehensive Plan, and several of its Goals and Objectives. However, the petitioner also states there is no physical alteration planned “on the ground” – that is no change of use or occupancy, and no new construction. With no changes, except for a planned new sign, the staff cannot find that the requested rezoning is furthering the vision, goals, objectives or policy statements of the 2013 Comprehensive Plan.

Given that the zone change cannot be found to be in agreement with the adopted Comprehensive Plan, the Planning Commission must evaluate whether there has been a significant physical, social or economic change in the immediate that was not anticipated by the recently adopted Plan, or if the existing zoning is inappropriate and the proposed zone is appropriate. No “unanticipated changes” could be documented by the staff.

The petitioner has made a strong case that the B-1 zone is not appropriate for the subject site, and the more restrictive B-6P zone is appropriate. More than a decade ago, the staff agreed with that sentiment. The 5.78-acre site meets the size requirements defined in Article 12 for a “neighborhood shopping center,” and it has functioned as one for the past decade. The principal permitted uses are substantially the same, although there are fewer conditional uses available in the proposed B-6P zone.

The petitioner is also willing to restrict the property further through conditional zoning restrictions, although not as restrictive as the current conditional zoning restrictions for the rear portion of the property. Additionally, the B-6P zone will standardize the parking required for this development, and eliminate the need for leasing off-site parking; this facilitates a more efficient use of the existing shopping center. Lastly, although the B-6P zone requires a 50-foot setback from the zoning boundary, several of the structures on the site will not meet the requirement and will become non-conforming. No expansion of the existing buildings will be permitted unless a variance is granted in the future by the Board of Adjustment.

The Staff Recommends: Approval, for the following reasons:

1. The existing Neighborhood Business (B-1) zone is no longer appropriate, and the proposed Planned Shopping Center (B-6P) zone is appropriate for the subject property, for the following reasons:
 - a. The subject property meets the definition of a “neighborhood shopping center” as established in Article 12 of the Zoning Ordinance. It is greater than three acres in size and provides for the “sale of convenience goods ... and personal services.”
 - b. The subject property’s parking requirements can be standardized and the parcel can be utilized in a more efficient manner with the proposed B-6P zone.
 - c. Due to the property’s topographic situation related to the nearby Harrodsburg Road, and due to the established development pattern, the B-6P zone and designation as a shopping center is more appropriate than the allowable collection of independent businesses possible in the existing B-1 zone.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00047: South Elkhorn Village, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission’s approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following prohibited uses and landscape buffers are recommended for the subject property via conditional zoning:
 - A. Landscape Buffers (in addition to the requirements of Article 18 of the Zoning Ordinance)
 - i. Along the northwestern and northeastern boundaries, a 20-foot wide landscape buffer shall be provided.

- ii. Included within the buffer shall be an eight-foot (8') tall brick wall, except that the wall shall allow a fifty-foot (50') wide gap where Palmetto Drive adjoins the property.
- iii. Included in the landscape buffer shall be evergreen trees planted 20-foot (20') on center along the northeastern boundary (shared A-U zone boundary).

B. Use Conditions

i. Lighting

- a. All outdoor lighting shall be directed downward and away from adjoining land that is residentially and agriculturally zoned; and the light source shall be shielded so as to prevent direct lighting of the adjoining Palomar Hills Subdivision or the historic South Elkhorn Christian Church.

ii. Prohibited Uses

- a. Self-service laundries or laundry pick-up stations
- b. Self-service car washes
- c. Trailer, truck and/or equipment rental
- d. Outdoor miniature golf or putting courses
- e. Circuses and carnivals
- f. Arcades, including pinball and electronic games
- g. Mining
- h. Automobile service stations, automobile and vehicle refueling station, and gasoline pumps available to the public without an employee on the premises
- i. Recycling drop-off centers
- j. Rehabilitation homes

The land use and buffering restrictions, most of which have been in existence for the past decade, are necessary and appropriate for the subject property in order to protect the adjoining residential area and historic church from the potential negative effects of more intensive non-residential uses on the subject property.

3. COMPASS CAPITAL, LLC ZONING MAP AMENDMENT & SOUTH ELKHORN VILLAGE ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00020: COMPASS CAPITAL, LLC (7/30/17)*- petition for a zone map amendment from a Neighborhood Business (B-1) zone to a Planned Shopping Center (B-6P) zone, for 5.78 net (7.58 gross) acres, for property located at 4379 Old Harrodsburg Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The Plan's mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner proposes a rezoning to the South Elkhorn Village neighborhood shopping center in order to facilitate increased signage and reduced parking requirements for the center. No physical changes to the subject property are planned, other than a new shopping center identification sign, by the petitioner.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval, for the following reasons:

1. The existing Neighborhood Business (B-1) zone is no longer appropriate, and the proposed Planned Shopping Center (B-6P) zone is appropriate for the subject property, for the following reasons:
 - a. The subject property meets the definition of a "neighborhood shopping center" as established in Article 12 of the Zoning Ordinance. It is greater than three acres in size and provides for the "sale of convenience goods ... and personal services."
 - b. The subject property's parking requirements can be standardized and the parcel can be utilized in a more efficient manner with the proposed B-6P zone.
 - c. Due to the property's topographic situation related to the nearby Harrodsburg Road, and due to the established development pattern, the B-6P zone and designation as a shopping center is more appropriate than the allowable collection of independent businesses possible in the existing B-1 zone.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00047: South Elkhorn Village, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following prohibited uses and landscape buffers are recommended for the subject property via conditional zoning:
 - A. Landscape Buffers (in addition to the requirements of Article 18 of the Zoning Ordinance)
 - i. Along the northwestern and northeastern boundaries, a 20-foot wide landscape buffer shall be provided.
 - ii. Included within the buffer shall be an eight-foot (8') tall brick wall, except that the wall shall allow a fifty-foot (50') wide gap where Palmetto Drive adjoins the property.
 - iii. Included in the landscape buffer shall be evergreen trees planted 20-foot (20') on center along the northeastern boundary (shared A-U zone boundary).
 - B. Use Conditions
 - i. Lighting
 - a. All outdoor lighting shall be directed downward and away from adjoining land that is residentially and agriculturally zoned; and the light source shall be shielded so as to prevent direct lighting of the adjoining Palomar Hills Subdivision or the historic South Elkhorn Christian Church.
 - ii. Prohibited Uses
 - a. Self-service laundries or laundry pick-up stations
 - b. Self-service car washes
 - c. Trailer, truck and/or equipment rental
 - d. Outdoor miniature golf or putting courses
 - e. Circuses and carnivals
 - f. Arcades, including pinball and electronic games
 - g. Mining
 - h. Automobile service stations, automobile and vehicle refueling station, and gasoline pumps available to the public without an employee on the premises
 - i. Recycling drop-off centers
 - j. Rehabilitation homes

The land use and buffering restrictions, most of which have been in existence for the past decade, are necessary and appropriate for the subject property in order to protect the adjoining residential area and historic church from the potential negative effects of more intensive non-residential uses on the subject property.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

- b. PLN- MJDP-17-00047: SOUTH ELKHORN VILLAGE (7/30/17)* - located at 4401 Old Harrodsburg Road.
(EA Partners)

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-6P; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
8. Denote height of buildings in feet, on plan.
9. Denote width of existing sidewalks.
10. Clarify whether existing trees will have protection measures, and what those will be.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this zone change. She displayed several photographs of the subject property and the general area and said that the subject property is currently the South Elkhorn Village shopping center. This shopping center is on Old Harrodsburg Road, which is approximately 10 feet below the new Harrodsburg Road (US 68) that was built about 10 years ago. She said that the applicant believes that the proposed zone will benefit this property by allowing it to be more utilized in a more efficient manner.

Ms. Wade said that the parking and sign allowances are different in the proposed zone. She said that the parking requirement is a flat ratio shared between all the shops in the center. The sign allowance is for one sign per shopping center in a B-6P zone, which also allows a larger sign, and one which could list all the shopping center tenants.

Ms. Wade said that the applicant's justification states that this zone change is in agreement with the 2013 Comprehensive Plan, but the staff can't find that without a physical change to the subject property, that there isn't any supporting documentation affecting this zone change request. However, the staff does agree with the applicant that the proposed zone would be more appropriate at this location.

Ms. Wade said that the applicant is willing to continue the conditional zoning restrictions that were put in place in 2006, and have also offered more restrictive limitations, for the subject property. She said that with the standardized parking, the shopping center will no longer need to lease parking from South Elkhorn Church. She concluded by saying that the staff is recommending approval of this zone change, with the conditional zoning restrictions that are currently in place. She distributed a handout of the revised conditional zoning restrictions, as follows (in bold):

3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following prohibited uses and landscape buffers are recommended for the subject property via conditional zoning:
 - A. Landscape Buffers (in addition to the requirements of Article 18 of the Zoning Ordinance)
 - i. Along the northwestern and northeastern boundaries, a 20-foot wide landscape buffer shall be provided.
 - ii. Included within the buffer **along the northwestern boundary with Palomar Hills Subdivision** shall be an eight-foot (8') tall brick wall, except that the wall shall allow a fifty-foot (50') wide gap where Palmetto Drive adjoins the property.
 - iii. Included in the landscape buffer shall be evergreen trees planted 20-foot (20') on center along the northeastern boundary (shared A-U zone boundary).
 - B. Use Conditions
 - i. Lighting
 - a. All outdoor lighting shall be directed downward and away from adjoining land that is residentially and agriculturally zoned; and the light source shall be shielded so as to prevent direct lighting of the adjoining Palomar Hills Subdivision or the historic South Elkhorn Christian Church.
 - ii. Prohibited Uses
 - a. Self-service laundries or laundry pick-up stations
 - b. Self-service car washes
 - c. Trailer, truck and/or equipment rental
 - d. Outdoor miniature golf or putting courses
 - e. Circuses and carnivals
 - f. Arcades, including pinball and electronic games
 - g. Mining
 - h. Automobile service stations, automobile and vehicle refueling station, and gasoline pumps available to the public without an employee on the premises

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

- i. Recycling drop-off centers
- j. Rehabilitation homes

The land use and buffering restrictions, most of which have been in existence for the past decade, are necessary and appropriate for the subject property in order to protect the adjoining residential area and historic church from the potential negative effects of more intensive non-residential uses on the subject property.

Ms. Wade also said the South Elkhorn Church has been next door for 250 years and the staff doesn't believe that the property will be rezoned and redeveloped anytime soon. They should enjoy the same buffering requirements that are typical for most shopping centers. She said that the landscape buffers have been separated so that the wall that has been required along the Palomar subdivision will not be required along the church boundary. This wall had been requested by the Palomar subdivision in 2006, is already in place and is currently only required along the northwestern boundary of the subject property.

Development Plan Presentation – Mr. Bronczyk presented the staff report on the 4th amended Development Plan associated with this zone change. He said that there are no physical changes being proposed to the site. He said that most of the conditions are standard sign-offs. He said that the height of each building denoted in feet as well as the dimensions of all the sidewalks. He said that to be in compliance with Article 26, the staff needs clarification of the protection measures intended for the existing trees.

Petitioner Presentation – Jacob Walbourn, attorney, was present representing the petitioner. He said the applicant is in agreement with the staff's recommendations. He said the grade difference of the shopping center to US 68 is a disadvantage to the shopping center. The applicant believes that this zone change will help make their development more visible and viable. He said that the applicant would like to deploy tenant panels on their signage instead of more wall signs.

Mr. Walbourn also said that the applicant is in agreement with the conditional zoning restrictions. He said that the applicant is currently leasing parking from South Elkhorn Church, which is highly underutilized. Under the proposed zone, all of the parking requirements will be met on their own property.

Commission Question – Ms. Plumlee asked for verification of the brick wall. Mr. Walbourn said that the brick wall that was requested by the neighborhood association was installed about twenty years ago. He said that they don't want the wall to extend to the church property line, as they don't believe it is necessary for buffering purposes. He said that the applicant is in agreement with the revised staff's recommendation for conditional zoning restrictions, and they will install a new landscape buffer.

Citizen Comment – There were no citizens present to speak to this application.

Zoning Action – A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 8-0 (Brewer and Drake absent) to approve PLN-MAR-17-00020: COMPASS CAPITAL, LLC, for the reasons provided by the staff along with the staff's revised recommendation for conditional zoning restrictions.

Development Plan Action – A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 8-0 (Brewer and Drake absent) to approve PLN- MJDP-17-00047: SOUTH ELKHORN VILLAGE, for the reasons provided by the staff.