

AN ORDINANCE CHANGING THE ZONE FROM A HIGH DENSITY APARTMENT (R-4) ZONE TO A PLANNED SHOPPING CENTER (B-6P) ZONE, FOR .99 NET (1.16 GROSS) ACRES; FOR PROPERTY LOCATED AT 4251 SARON DRIVE (A PORTION OF). (CONTINENTAL REAL ESTATE; COUNCIL DISTRICT 8).

WHEREAS, at a Public Hearing held on September 24, 2015, a petition for a zoning ordinance map amendment for property located at 4251 Saron Drive (a portion of) from a High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone, for .99 net (1.16 gross) acres; was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 9-0; 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 4251 Saron Drive (a portion of) from a High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone, for .99 net (1.16 gross) acres; being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - 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 3 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: November 5, 2015



MAYOR

CERTIFICATE

I do hereby certify that the title to this enactment contains an accurate synopsis of the contents thereof and may be used to satisfy the reading and publication requirements of law.


DEPARTMENT OF LAW

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

November 12, 2015

Published:

1285-15-TWJ-X:\Cases\PLANNING\15-LE0001\LEG\00506257.DOCX

1285-15

Rec'd by _____

Date: _____

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

IN RE: MAR 2015-20: CONTINENTAL REAL ESTATE - petition for a zone map amendment from a High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone, for 0.99 net (1.16 gross) acres, for property located at 4251 Saron Drive (a portion of). (Council District 8)

Having considered the above matter on September 24, 2015, at a Public Hearing, and having voted 9-0 that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend APPROVAL of this matter for the following reasons:

1. The requested rezoning to a Planned Shopping Center (B-6P) zone is appropriate, and the existing High Density Apartment (R-4) zone is inappropriate for the subject property, for the following reasons:
 - a. The subject property is located adjacent to, and across Saron Drive from, properties that are currently located within a B-6P zone, and are developed as such. Therefore, the B-6P zone is compatible with the surrounding area.
 - b. The southern boundary of the subject property is defined by a significant stormwater and drainage feature and floodplain that creates a physical barrier to the remainder of the parcel to the south, which is currently under construction for an assisted living facility. As a result of these physical constraints, the subject property was not able to be utilized in the planning and development of the adjoining assisted living facility. This physical barrier is a more appropriate and recognizable land use buffer between the residential land use to the south and the commercial land use to the north in this instance.
 - c. As a stand-alone tract, the subject property is too small to be utilized for high density apartments, as suggested by its current zoning category, but is suitable for commercial development.
 - d. The proposed use and development is consistent with the provisions of Article 12 of the Zoning Ordinance for the B-6P zone, and is in a convenient location in order to serve the nearby neighborhoods without infringing upon their established boundaries.
2. This recommendation is made subject to approval and certification of ZDP 2015-81: Coons Property, Tract 1 (a portion of) (Amd.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 9th day of October, 2015.


Secretary, Jim Duncan

MIKE OWENS
CHAIR

Note: The corollary development plan, ZDP 2015-81: Coons Property, Tract 1 (a portion of) (Amd.), was approved by the Planning Commission on September 24, 2015, and certified on October 6, 2015.

K.R.S. 100.211(7) requires that the Council take action on this request by December 23, 2015.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Kevin Rich, Landscape Architect.**

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (9) Berkley, Brewer, Cravens, Drake, Mundy, Owens, Plumlee, Richardson, Wilson

NAYS: (0)

ABSENT: (2) Penn, Smith

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for APPROVAL of MAR 2015-20 carried.

Enclosures:

- Application
- Plat
- Staff Report
- Applicable excerpts of minutes of above meeting

MAR 2015-20

Date Received 8/3/15

Pre-Application Date 6/30/15

Filing Fee \$ 470.00

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)

APPLICANT: Continental Real Estate	150 E. Broad Street Columbus, Ohio 43215	(614) 221-1800
OWNER: Lexington Senior Housing,	150 E. Broad Street Columbus, Ohio 43215	(614) 221-1800
ATTORNEY: --		

2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)

4251 Saron Drive, Lexington, Kentucky 40515 (a portion of)

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed--same format.)

Zoning	Existing Use	Zoning	Requested Use	Net	Gross
R-4	Vacant	B-6P	Retail, Restaurant	0.99	1.16

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Fueling Station (shell)	B-6P
East	Shopping Center	B-6P
South	Assisted Living Facility	R-4 W.CUP
West	Vacant / West Hickman Creek	R-4

5. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved? YES NO

b. Have any such dwelling units been present on the subject property in the past 12 months? YES NO

c. Are these units currently occupied by households earning under 40 % of the median income?
if yes, how many units? YES NO
if yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing. _____ Units

6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by Developer	<input type="checkbox"/> Other
Storm Sewers	<input type="checkbox"/> Existing	<input checked="" type="checkbox"/> To be constructed by Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUGG	<input type="checkbox"/> Other	
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

7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)

This is in... in agreement with the Comp. Plan more appropriate than the existing zoning due to unanticipated changes.

8. APPLICANT/OWNER SIGNS THIS CERTIFICATION

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am OWNER or HOLDER of an agreement to purchase this property since _____

APPLICANT [Signature] DATE 8/3/15

OWNER _____ DATE _____

LFUGG EMPLOYEE/OFFICER, if applicable _____ DATE _____

RICH DESIGN STUDIOS

August 3, 2015

Lexington-Fayette Urban County Planning Commission
Division of Planning – Planning Services Section
200 E. Main Street
Lexington, Kentucky 40507

RE: Saron Drive Property - North Property (Lot 1, Tract 2) – Statement of Justification

On behalf of the applicant, Continental Real Estate, I present this Statement of Justification as a part of the Zone Map Amendment Request (MAR) Application for the above mentioned project.

The subject property, Lot 1 Tract 2 of 4251 Saron Drive, Lexington, Kentucky 40515, is currently zoned High Density Apartments (R-4) and the applicant is requesting a zone change to Planned Shopping Center (B-6P). The proposed land-use, as shown on the preliminary development plan filed with this zone change, is as a two-unit building consisting of a restaurant with drive-thru and retail services. Lot 1 Tract 2 is 0.99 acres in size, is currently vacant, and is owned by Lexington Senior Housing, LLC a subsidiary of Continental Real Estate.

The remaining 4.24 acre south property, Lot 1 Tract 1, is currently under construction as an assisted living facility by the Owner under a Conditional Use Permit granted on August 22, 2014 and Final Development Plan approved on March 12, 2015.

The assisted living facility property is effectively separated from the north property due to existing topographic and flood plain constraints. As a result, the 0.99 acre north property was unable to be utilized in the planning and development of the assisted living facility. As a stand-alone tract of land, the north property is too small to be utilized for high-density apartments and is therefore no longer appropriate for R-4 zoning and is more suited to the B-6P zoning proposed by the Applicant. The adjacent properties to the north, a Shell fueling station, as well as to the east (across Saron Drive), the Tates Creek South Shopping Center, are both zoned B-6P. Lot 1 Tract 1 to the south shall remain under the Conditional Use Permit for the assisted living facility and the property to the west is the undevelopable floodplain for West Hickman Creek.

The zone change request to B-6P is appropriate for this property as outlined above and is in compliance with the 2013 Comprehensive Plan. The proposed zone change and land-uses are consistent with the intent of the Planned Shopping Center (B-6P) zone through the location of additional commercial property in close proximity to existing commercial properties in a convenient location. This assures convenience by providing commercial areas in the proper location relative to established residential neighborhoods in order to serve the people of the area conveniently.

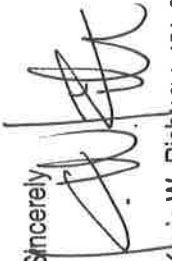
The proposed uses of a restaurant and retail services will also aid in improving the economic base and tax structure of the Lexington Metropolitan Area through the creation of jobs and prosperity to its residents. The proposed development will promote economically sound planning and commercial uses that are in close proximity to supporting and/or similar uses. Thereby being compatible with the existing zoning surrounding the subject property. Additionally, the proposed development of Lot 1 Tract 2 will meet current market demands for jobs as encouraged in the 2013 Comprehensive Plan.

RICH DESIGN STUDIOS

For the reasons stated within this letter and the Map Amendment Request application submittal, the applicant hereby requests approval of a zone change for Lot 1 Tract 2, located at 4251 Saron Drive, Lexington, Kentucky 40515, from High Density Apartments (R-4) to Planned Shopping Center (B-6P) and approval of the associated Preliminary Development Plan also submitted.

Thank you for your consideration of the Applicants zone change request. Please do not hesitate to contact me with any questions or should additional information be required.

Sincerely,



Kevin W. Rich, ASLA, APA, CLARB
Principal

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2015-20: CONTINENTAL REAL ESTATE

DESCRIPTION

Zone Change:

From a High Density Apartment (R-4) zone
To a Planned Shopping Center (B-6P) zone

Acreage:

0.99 net (1.16 gross) acre

Location:

4251 Saron Drive (a portion of)

EXISTING ZONING & LAND USE

Properties

Subject Property
To North
To East
To South
To West

Zoning

R-4
B-6P
B-6P
R-4
R-4

Existing Land Use

Vacant
Convenience Store & Gas Station
Shopping Center
Assisted Living Facility (under construction)
Greenway/West Hickman Creek

URBAN SERVICES REPORT

Roads – The subject property is located on the west side of Saron Drive, approximately 400 feet south of the signalized intersection of Saron Drive and Man o' War Boulevard. Saron Drive is a collector street that runs from Man o' War Boulevard toward the southeast through the Veterans Park area, generally located between West Hickman Creek to the west and Tates Creek Road (KY 1974) to the east.

Curb/Gutter/Sidewalks – Curb, gutters and sidewalks exist along Saron Drive.

Storm Sewers – The subject property is located within the West Hickman watershed. The West Hickman Creek is located immediately to the west of the subject site. A FEMA Special Flood Hazard Areas exists along the creek, and extends onto the southwest corner of the subject property. Stormwater issues have been documented at the intersection of Saron and Chas Drives during the past decade; however, stormwater improvements are currently underway along the southern property line of the subject property; associated with development of an assisted living facility immediately south of this location.

Sanitary Sewers – The property is located within the West Hickman watershed and is serviced by the West Hickman sewage treatment facility, located in northern Jessamine County, about two miles to the south of this location. Sanitary sewers currently serve the immediate area, and the southern portion of the parcel. If any improvements to these sewers are required to adequately serve the development of the property, the Engineering Manuals will need to be followed.

Refuse – The Urban County Government provides refuse collection to residences within this portion of the Urban Service Area on Mondays, although commercial developments oftentimes contract with private haulers for more frequent refuse collection.

Police – The property is located within Police Sector 3 and is served by the East Sector Roll Call Center. This police station is located on Centre Parkway, about 1½ miles to the northeast of the property.

Fire/Ambulance – Fire Station #22 is the closest fire station to the subject property, located about ½ mile to the south on Clearwater Way.

Utilities – All utilities, including electric, gas, water, telephone, and cable service are available to serve the subject property.

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 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 applicant proposes to construct a 4,000 square-foot commercial building for a restaurant with an accessory drive-through, in addition to a retail sales establishment.

CASE REVIEW

The petitioner has requested a zone change from a High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone for about one acre of property, which is a portion of 4251 Saron Drive.

The subject property is located on the west side of Saron Drive, about 400 feet from its signalized intersection with Man o' War Boulevard. In whole, the property is 5.22 acres in size, although only 0.99 acre is proposed for rezoning by the petitioner. Just to the east, across Saron Drive, is the Tates Creek South Shopping Center, which is anchored by a Wal-Mart Neighborhood Market store, and to the north is a convenience store and gas station (both zoned B-6P). South of the subject property is the remainder of the property, which is currently being developed with an assisted living facility (zoned R-4). A childcare center lies further to the south along Saron Drive. West of the subject property is the West Hickman Creek and its associated greenway and floodplain.

The petitioner proposes to construct a one-story commercial building and associated off-street parking. The corollary development plan proposes a restaurant with a drive-through facility, and a retail sales establishment, for a total of 4,000 square feet of space.

The subject property was part of a larger zone change of the Joe Coons farm, approved in 1990 from agricultural to the High Density Apartment and Planned Shopping Center zones for the southwestern portion of the Tates Creek Road and Man o' War Boulevard intersection.

The 2013 Comprehensive Plan focuses on general land use policies, such as land use compatibility; well-designed neighborhoods; improving a desirable community; and making the best use of land inside the Urban Service Boundary for the protection of the surrounding rural areas, but no longer utilizes a land use map.

The Plan does not address modest or minor changes in commercial land use that have a negligible impact on job creation; therefore, the applicant contends that the proposed rezoning is appropriate and the existing rezoning is no longer appropriate for the subject property. The applicant states that the property is not appropriate for R-4 zoning because the subject property (0.99 acre) is separated from the rest of the parcel due to physical features of the property, including a significant and existing topographic swale, which is coincident with a designated floodplain. As a result of these physical constraints, the subject property was not able to be utilized in the planning and development of the adjoining assisted living facility. Additionally, as a stand-alone tract, the property is too small to be utilized for high density apartments, or any other high-density residential use, as suggested by its current zoning category.

The applicant opines that the proposed B-6P zone is appropriate in that it is adjacent to properties already located within the same zoning category to the north and east, across Saron Drive. The physical boundary created by the floodplain and steep topography is a more appropriate and recognizable land use buffer between the residential land use to the south and the commercial land use in this instance. The proposed use and development can be provided with the provisions of the B-6P zone, and it is in a convenient location in order to serve the nearby neighborhoods without infringing upon their established boundaries.

The staff agrees with the applicant's justification and assessment that the existing R-4 zone is inappropriate and the proposed B-6P zone is appropriate for the subject property.

The Staff Recommends: Approval, for the following reasons:

1. The requested rezoning to a Planned Shopping Center (B-6P) zone is appropriate, and the existing High Density Apartment (R-4) zone is inappropriate for the subject property, for the following reasons:
 - a. The subject property is located adjacent to, and across Saron Drive from, properties that are currently located within a B-6P zone, and are developed as such. Therefore, the B-6P zone is compatible with the surrounding area.
 - b. The southern boundary of the subject property is defined by a significant stormwater and drainage feature and floodplain that creates a physical barrier to the remainder of the parcel to the south, which is currently under construction for an assisted living facility. As a result of these physical constraints, the subject property was not able to be utilized in the planning and development of the adjoining assisted living facility. This physical barrier is a more appropriate and recognizable land use buffer between the residential land use to the south and the commercial land use to the north in this instance.
 - c. As a stand-alone tract, the subject property is too small to be utilized for high density apartments, as suggested by its current zoning category, but is suitable for commercial development.
 - d. The proposed use and development is consistent with the provisions of Article 12 of the Zoning Ordinance for the B-6P zone, and is in a convenient location in order to serve the nearby neighborhoods without infringing upon their established boundaries.
2. This recommendation is made subject to approval and certification of ZDP 2015-81: Coons Property, Tract 1 (a portion of) (Amd.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

TLW/BJR/WLS
8/31/2015
Planning Services/Staff Reports/MAR/2015/MAR 2015-20.doc

2. CONTINENTAL REAL ESTATE ZONING MAP AMENDMENT & COONS PROPERTY, TRACT 1 (AMD) (A PORTION OF) ZONING DEVELOPMENT PLAN

- a. MAR 2015-20: CONTINENTAL REAL ESTATE (11/1/15)* - petition for a zone map amendment from a High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone, for 0.99 net (1.16 gross) acres, for property located at 4251 Saron Drive (a portion of).

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 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 applicant proposes to construct a 4,000 square-foot commercial building for a restaurant with an accessory drive-through, in addition to a retail sales establishment.

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommends: Approval, for the following reasons:

1. The requested rezoning to a Planned Shopping Center (B-6P) zone is appropriate, and the existing High Density Apartment (R-4) zone is inappropriate for the subject property, for the following reasons:
 - a. The subject property is located adjacent to, and across Saron Drive from, properties that are currently located within a B-6P zone, and are developed as such. Therefore, the B-6P zone is compatible with the surrounding area.
 - b. The southern boundary of the subject property is defined by a significant stormwater and drainage feature and floodplain that creates a physical barrier to the remainder of the parcel to the south, which is currently under construction for an assisted living facility. As a result of these physical constraints, the subject property was not able to be utilized in the planning and development of the adjoining assisted living facility. This physical barrier is a more appropriate and recognizable land use buffer between the residential land use to the south and the commercial land use to the north in this instance.
 - c. As a stand-alone tract, the subject property is too small to be utilized for high density apartments, as suggested by its current zoning category, but is suitable for commercial development.
 - d. The proposed use and development is consistent with the provisions of Article 12 of the Zoning Ordinance for the B-6P zone, and is in a convenient location in order to serve the nearby neighborhoods without infringing upon their established boundaries.
2. This recommendation is made subject to approval and certification of ZDP 2015-81: Coons Property, Tract 1 (a portion of) (Amd.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

- b. ZDP 2015-81: COONS PROPERTY, TRACT 1 (A PORTION OF) (AMD) (11/1/15)* - located at 4251 Saron Drive.
(Rich Design Studios)

Note: The purpose of this amendment is to rezone the property and add restaurant/retail uses.

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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Dimension access points to Saron Drive.
7. Dimension sidewalks on private property.
8. Denote construction access location.
9. Denote all development plan information existing and proposed for the entire property.
10. Addition of reference to Article 19 (floodplain elevations).
11. Discuss restaurant drive-through stacking and pick-up window location.
12. Discuss note #6 relative to proposed development.
13. Discuss proposed dumpster location.

Zoning Presentation: Ms. Wade presented the staff report on this requested zoning change, briefly orienting the Commission to the location of the subject property. She noted that the subject property is vacant; it is located across the street from the existing Tates Creek South Shopping Center, which is anchored by a Wal-Mart neighborhood

* - Denotes date by which Commission must either approve or disapprove request.

market. It is a portion of a larger parcel, which is currently under development with an assisted living facility. To the north is a gas station, also in a B-6P zone, and a number of outlots. A child care center is located further to the south of the subject property, along with mostly single-family residential dwelling units. There is still some vacant property in the area, along Chas Drive. Part of that property is under consideration for development as a medical office in the near future. Ms. Wade said that zoning in the vicinity includes B-6P to the north and east; R-4 for the property to the south and west; and a greenway immediately to the west, which is associated with West Hickman Creek.

Ms. Wade stated that the petitioner is proposing to rezone this portion of the subject property because it could not be incorporated into the assisted living facility site due to drainage and topographic issues along the zone change boundary. The petitioner is proposing the B-6P zone in order to create an outlot for the shopping center across the street, with a 4,000-square foot building and a drive-through.

With regard to the Comprehensive Plan recommendation, Ms. Wade explained that the 2013 Comprehensive Plan notes that compatibility is an important part of land use decisions. Since the adjoining B-6P zone is already developed, the staff agrees that B-6P zoning would help to provide consistency in the area. The staff and the Zoning Committee are recommending approval of this request, for the reasons listed in the staff report and on the agenda.

Development Plan Presentation: Ms. Galt presented the corollary zoning development plan, noting the portion of the property that is being developed as an assisted living facility. She explained that the petitioner is proposing a restaurant use for the subject property, with an associated drive-through.

Ms. Galt reviewed the Subdivision Committee recommendation, and noted that there was some discussion at the Committee meeting about the proposed locations for the drive-through and dumpster. The dumpster was originally proposed to be placed at an angle, which would not allow access for solid waste vehicles; the petitioner has agreed to revise the plan in order to straighten the approach to the dumpster. The staff wants to ensure that adequate stacking is provided for the drive-through, and that note #6 on the plan addresses the Division of Water Quality's requirements for the waterway.

Commission Questions: Mr. Owens asked if the three discussion items had been addressed. Ms. Galt answered that the petitioner had agreed to revise the plan in order to address those items, but had not yet provided the appropriate documentation for that revision. She added that note #6 refers to the hydrological study that was done for the entire property as part of the development of the assisted living facility.

Ms. Plumlee asked where the dumpster is proposed to be located. Ms. Galt answered that the dumpster location was originally proposed to be at an angle; the petitioner has indicated intent to revise the plan in order to meet the backup distance for the Division of Waste Management's vehicles. She again said that note #6 refers to the Division of Water Quality's control requirements, which were met based on a hydrology study done as part of the development of the assisted living facility.

Petitioner Presentation: Kevin Rich, Rich Design Studios, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendations.

Mr. Rich said that note #6, as referenced in condition #12, refers to a detention basin. The basin was constructed following a watershed analysis done as part of the construction of the assisted living facility. The analysis indicated that detention was not needed for the entire property, which was why no stormwater facilities were provided on the assisted living center site. Mr. Rich said that he had spoken with Hillard Newman in the Division of Engineering, who indicated that he had no problems with the terminology of the note.

With regard to the dumpster location, Mr. Rich said that the angle of approach had been changed to accommodate Division of Solid Waste vehicles:

Commission Question: Mr. Owens asked if condition #11, concerning the drive-through on the property, had been addressed. Mr. Rich responded that he had worked with the Division of Traffic Engineering, and those issues had been addressed. Mr. Owens asked why the revised version of the plan was not before the Commission members at this hearing. Mr. Rich answered that the appropriate copies of the plan had not been provided to the staff.

Mr. Owens asked if the staff was comfortable with the information provided on the plan, even though a revised version had not been presented. Ms. Galt indicated that they were comfortable with recommending approval of the plan.

Zoning Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent) to approve MAR 2015-20, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 9-0 (Penn and Smith absent) to approve ZDP 2015-81, with the first 10 conditions as listed on the agenda, deleting conditions #11-13.



scale: 1" = 100'

title
PROPERTY INFO
 Saron Drive - North I

owner
 Lexington Senior Housing
 150 E. Broad St
 Suite 300
 Columbus, Ohio 43215

prepared by
 RLK LAND PL.



Rec'd by _____

Date: _____

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

IN RE: MAR 2015-20: CONTINENTAL REAL ESTATE - petition for a zone map amendment from a High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone, for 0.99 net (1.16 gross) acres, for property located at 4251 Saron Drive (a portion of). (Council District 8)

Having considered the above matter on September 24, 2015, at a Public Hearing, and having voted 2-0 that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** of this matter for the following reasons:

1. The requested rezoning to a Planned Shopping Center (B-6P) zone is appropriate, and the existing High Density Apartment (R-4) zone is inappropriate for the subject property, for the following reasons:
 - a. The subject property is located adjacent to, and across Saron Drive from, properties that are currently located within a B-6P zone, and are developed as such. Therefore, the B-6P zone is compatible with the surrounding area.
 - b. The southern boundary of the subject property is defined by a significant stormwater and drainage feature and floodplain that creates a physical barrier to the remainder of the parcel to the south, which is currently under construction for an assisted living facility. As a result of these physical constraints, the subject property was not able to be utilized in the planning and development of the adjoining assisted living facility. This physical barrier is a more appropriate and recognizable land use buffer between the residential land use to the south and the commercial land use to the north in this instance.
 - c. As a stand-alone tract, the subject property is too small to be utilized for high density apartments, as suggested by its current zoning category, but is suitable for commercial development.
 - d. The proposed use and development is consistent with the provisions of Article 12 of the Zoning Ordinance for the B-6P zone, and is in a convenient location in order to serve the nearby neighborhoods without infringing upon their established boundaries.
2. This recommendation is made subject to approval and certification of ZDP 2015-81: Coons Property, Tract 1 (a portion of) (Amd.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 9th day of October, 2015.


Secretary, Jim Duncan

MIKE OWENS
CHAIR

Note: The corollary development plan, ZDP 2015-81: Coons Property, Tract 1 (a portion of) (Amd.), was approved by the Planning Commission on September 24, 2015, and certified on October 6, 2015.

K.R.S. 100.211(7) requires that the Council take action on this request by December 23, 2015.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Kevin Rich, Landscape Architect.**

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (9) Berkley, Brewer, Cravens, Drake, Mundy, Owens, Plumlee, Richardson, Wilson

NAYS: (0)

ABSENT: (2) Penn, Smith

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for APPROVAL of MAR 2015-20 carried.

Enclosures:

Application
Plat
Staff Report
Applicable excerpts of above meeting

MAR 2015-20

Date Received 8/3/15

Pre-Application Date 6/30/15

Filing Fee \$ 470.00

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)

APPLICANT: Continental Real Estate	150 E. Broad Street Columbus, Ohio 43215	(614) 221-1800
OWNER: Lexington Senior Housing, LLC	150 E. Broad Street Columbus, Ohio 43215	(614) 221-1800
ATTORNEY: --		

2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)

4251 Saron Drive, Lexington, Kentucky 40515 (a portion of)

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed--same format.)

Zoning	Existing Use	Zoning	Requested Use	Net	Gross
R-4	Vacant	B-6P	Retail, Restaurant	0.99	1.16

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Fueling Station (shell)	B-6P
East	Shopping Center	B-6P
South	Assisted Living Facility	R-4 w.CUP
West	Vacant / West Hickman Creek	R-4

5. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved? YES NO

b. Have any such dwelling units been present on the subject property in the past 12 months? YES NO

c. Are these units currently occupied by households earning under 40% of the median income? YES NO
 If yes, how many units? _____ Units
 If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.

6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by Developer	<input type="checkbox"/> Other
Storm Sewers	<input type="checkbox"/> Existing	<input checked="" type="checkbox"/> To be constructed by Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUGG	<input type="checkbox"/> Other	
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

7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)

This is in... in agreement with the Comp. Plan more appropriate than the existing zoning due to unanticipated changes.

8. APPLICANT/OWNER SIGNS THIS CERTIFICATION

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am OWNER or HOLDER of an agreement to purchase this property since _____

APPLICANT _____

DATE 8/3/15

OWNER _____

DATE _____

LFUGG EMPLOYEE/OFFICER, if applicable _____

DATE _____

RICH DESIGN STUDIOS

August 3, 2015

Lexington-Fayette Urban County Planning Commission
Division of Planning – Planning Services Section
200 E. Main Street
Lexington, Kentucky 40507

RE: Saron Drive Property - North Property (Lot 1, Tract 2) – Statement of Justification

On behalf of the applicant, Continental Real Estate, I present this Statement of Justification as a part of the Zone Map Amendment Request (MAR) Application for the above mentioned project.

The subject property, Lot 1 Tract 2 of 4251 Saron Drive, Lexington, Kentucky 40515, is currently zoned High Density Apartments (R-4) and the applicant is requesting a zone change to Planned Shopping Center (B-6P). The proposed land-use, as shown on the preliminary development plan filed with this zone change, is as a two-unit building consisting of a restaurant with drive-thru and retail services. Lot 1 Tract 2 is 0.99 acres in size, is currently vacant, and is owned by Lexington Senior Housing, LLC a subsidiary of Continental Real Estate.

The remaining 4.24 acre south property, Lot 1 Tract 1, is currently under construction as an assisted living facility by the Owner under a Conditional Use Permit granted on August 22, 2014 and Final Development Plan approved on March 12, 2015.

The assisted living facility property is effectively separated from the north property due to existing topographic and flood plain constraints. As a result, the 0.99 acre north property was unable to be utilized in the planning and development of the assisted living facility. As a stand-alone tract of land, the north property is too small to be utilized for high-density apartments and is therefore no longer appropriate for R-4 zoning and is more suited to the B-6P zoning proposed by the Applicant. The adjacent properties to the north, a Shell fueling station, as well as to the east (across Saron Drive), the Tates Creek South Shopping Center, are both zoned B-6P. Lot 1 Tract 1 to the south shall remain under the Conditional Use Permit for the assisted living facility and the property to the west is the undevelopable floodplain for West Hickman Creek.

The zone change request to B-6P is appropriate for this property as outlined above and is in compliance with the 2013 Comprehensive Plan. The proposed zone change and land-uses are consistent with the intent of the Planned Shopping Center (B-6P) zone through the location of additional commercial property in close proximity to existing commercial properties in a convenient location. This assures convenience by providing commercial areas in the proper location relative to established residential neighborhoods in order to serve the people of the area conveniently.

The proposed uses of a restaurant and retail services will also aid in improving the economic base and tax structure of the Lexington Metropolitan Area through the creation of jobs and prosperity to its residents. The proposed development will promote economically sound planning and commercial uses that are in close proximity to supporting and/or similar uses. Thereby being compatible with the existing zoning surrounding the subject property. Additionally, the proposed development of Lot 1 Tract 2 will meet current market demands for jobs as encouraged in the 2013 Comprehensive Plan.

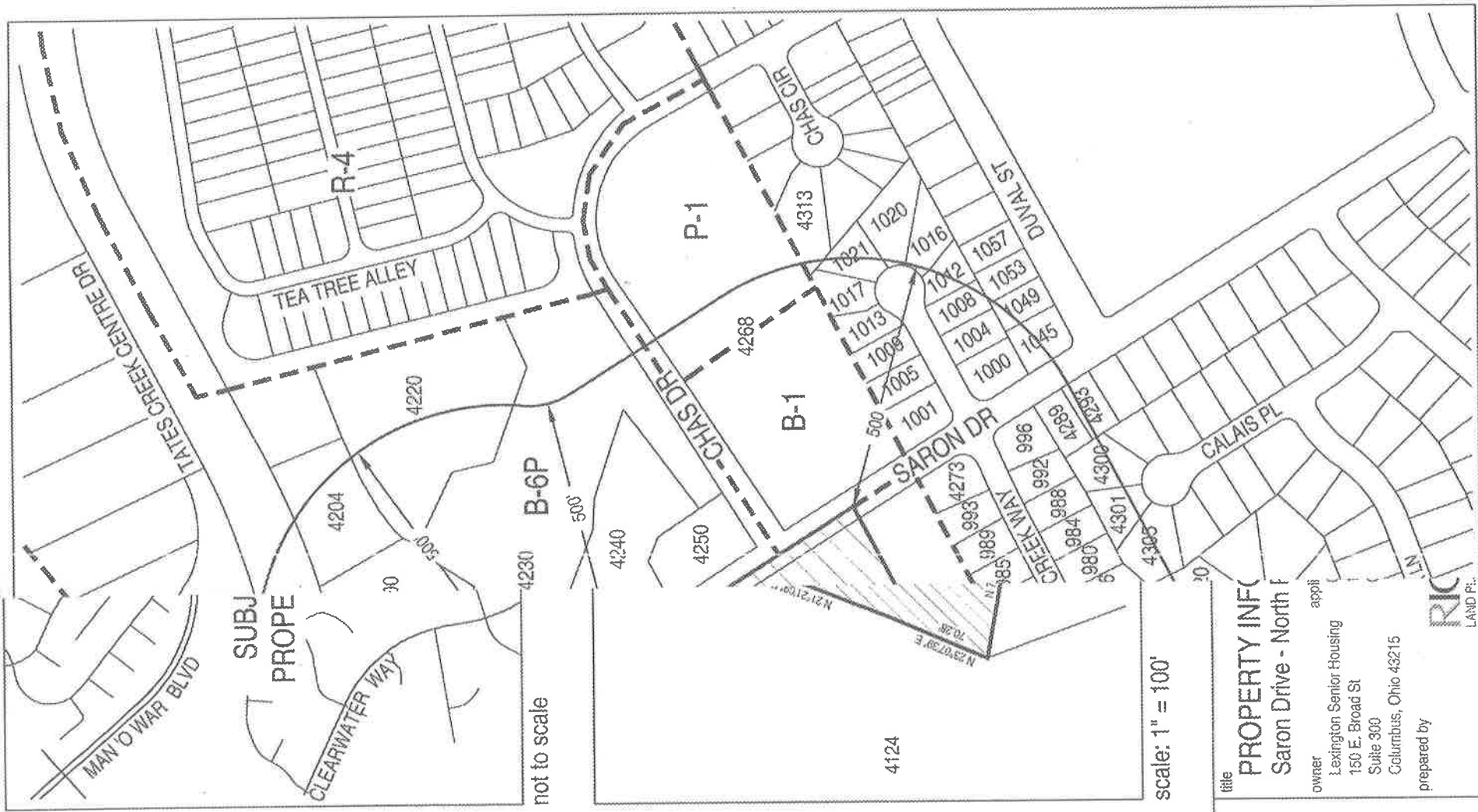
RICHDESIGNSTUDIOS

For the reasons stated within this letter and the Map Amendment Request application submittal, the applicant hereby requests approval of a zone change for Lot 1 Tract 2, located at 4251 Saron Drive, Lexington, Kentucky 40515, from High Density Apartments (R-4) to Planned Shopping Center (B-6P) and approval of the associated Preliminary Development Plan also submitted.

Thank you for your consideration of the Applicant's zone change request. Please do not hesitate to contact me with any questions or should additional information be required.

Sincerely,

Kevin W. Rich, ASLA, APA, CLARB
Principal



not to scale

4124

scale: 1" = 100'

	PROPERTY INFO Saron Drive - North f
	owner: appof Lexington Senior Housing 150 E. Broad St Suite 300 Columbus, Ohio 43215 prepared by



STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2015-20: CONTINENTAL REAL ESTATE

DESCRIPTION

Zone Change: From a High Density Apartment (R-4) zone
To a Planned Shopping Center (B-6P) zone

Acreage: 0.99 net (1.16 gross) acre

Location: 4251 Saron Drive (a portion of)

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-4	Vacant
To North	B-6P	Convenience Store & Gas Station
To East	B-6P	Shopping Center
To South	R-4	Assisted Living Facility (under construction)
To West	R-4	Greenway/West Hickman Creek

URBAN SERVICES REPORT

Roads – The subject property is located on the west side of Saron Drive, approximately 400 feet south of the signalized intersection of Saron Drive and Man o' War Boulevard. Saron Drive is a collector street that runs from Man o' War Boulevard toward the southeast through the Veterans Park area, generally located between West Hickman Creek to the west and Tates Creek Road (KY 1974) to the east.

Curb/Gutter/Sidewalks – Curb, gutters and sidewalks exist along Saron Drive.

Storm Sewers – The subject property is located within the West Hickman watershed. The West Hickman Creek is located immediately to the west of the subject site. A FEMA Special Flood Hazard Areas exists along the creek, and extends onto the southwest corner of the subject property. Stormwater issues have been documented at the intersection of Saron and Chas Drives during the past decade; however, stormwater improvements are currently underway along the southern property line of the subject property; associated with development of an assisted living facility immediately south of this location.

Sanitary Sewers – The property is located within the West Hickman watershed and is serviced by the West Hickman sewage treatment facility, located in northern Jessamine County, about two miles to the south of this location. Sanitary sewers currently serve the immediate area, and the southern portion of the parcel. If any improvements to these sewers are required to adequately serve the development of the property, the Engineering Manuals will need to be followed.

Refuse – The Urban County Government provides refuse collection to residences within this portion of the Urban Service Area on Mondays, although commercial developments oftentimes contract with private haulers for more frequent refuse collection.

Police – The property is located within Police Sector 3 and is served by the East Sector Roll Call Center. This police station is located on Centre Parkway, about 1 ½ miles to the northeast of the property.

Fire/Ambulance – Fire Station #22 is the closest fire station to the subject property, located about ½ mile to the south on Clearwater Way.

Utilities – All utilities, including electric, gas, water, telephone, and cable service are available to serve the subject property.

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 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 applicant proposes to construct a 4,000 square-foot commercial building for a restaurant with an accessory drive-through, in addition to a retail sales establishment.

CASE REVIEW

The petitioner has requested a zone change from a High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone for about one acre of property, which is a portion of 4251 Saron Drive.

The subject property is located on the west side of Saron Drive, about 400 feet from its signalized intersection with Man o' War Boulevard. In whole, the property is 5.22 acres in size, although only 0.99 acre is proposed for rezoning by the petitioner. Just to the east, across Saron Drive, is the Tates Creek South Shopping Center, which is anchored by a Wal-Mart Neighborhood Market store, and to the north is a convenience store and gas station (both zoned B-6P). South of the subject property is the remainder of the property, which is currently being developed with an assisted living facility (zoned R-4). A childcare center lies further to the south along Saron Drive. West of the subject property is the West Hickman Creek and its associated greenway and floodplain.

The petitioner proposes to construct a one-story commercial building and associated off-street parking. The corollary development plan proposes a restaurant with a drive-through facility, and a retail sales establishment, for a total of 4,000 square feet of space.

The subject property was part of a larger zone change of the Joe Coons farm, approved in 1990 from agricultural to the High Density Apartment and Planned Shopping Center zones for the southwestern portion of the Tates Creek Road and Man o' War Boulevard intersection.

The 2013 Comprehensive Plan focuses on general land use policies, such as land use compatibility; well-designed neighborhoods; improving a desirable community; and making the best use of land inside the Urban Service Boundary for the protection of the surrounding rural areas, but no longer utilizes a land use map.

The Plan does not address modest or minor changes in commercial land use that have a negligible impact on job creation; therefore, the applicant contends that the proposed rezoning is appropriate and the existing rezoning is no longer appropriate for the subject property. The applicant states that the property is not appropriate for R-4 zoning because the subject property (0.99 acre) is separated from the rest of the parcel due to physical features of the property, including a significant and existing topographic swale, which is coincident with a designated floodplain. As a result of these physical constraints, the subject property was not able to be utilized in the planning and development of the adjoining assisted living facility. Additionally, as a stand-alone tract, the property is too small to be utilized for high density apartments, or any other high-density residential use, as suggested by its current zoning category.

The applicant opines that the proposed B-6P zone is appropriate in that it is adjacent to properties already located within the same zoning category to the north and east, across Saron Drive. The physical boundary created by the floodplain and steep topography is a more appropriate and recognizable land use buffer between the residential land use to the south and the commercial land use in this instance. The proposed use and development can be provided with the provisions of the B-6P zone, and it is in a convenient location in order to serve the nearby neighborhoods without infringing upon their established boundaries.

The staff agrees with the applicant's justification and assessment that the existing R-4 zone is inappropriate and the proposed B-6P zone is appropriate for the subject property.

The Staff Recommends: Approval, for the following reasons:

1. The requested rezoning to a Planned Shopping Center (B-6P) zone is appropriate, and the existing High Density Apartment (R-4) zone is inappropriate for the subject property, for the following reasons:
 - a. The subject property is located adjacent to, and across Saron Drive from, properties that are currently located within a B-6P zone, and are developed as such. Therefore, the B-6P zone is compatible with the surrounding area.
 - b. The southern boundary of the subject property is defined by a significant stormwater and drainage feature and floodplain that creates a physical barrier to the remainder of the parcel to the south, which is currently under construction for an assisted living facility. As a result of these physical constraints, the subject property was not able to be utilized in the planning and development of the adjoining assisted living facility. This physical barrier is a more appropriate and recognizable land use buffer between the residential land use to the south and the commercial land use to the north in this instance.
 - c. As a stand-alone tract, the subject property is too small to be utilized for high density apartments, as suggested by its current zoning category, but is suitable for commercial development.
 - d. The proposed use and development is consistent with the provisions of Article 12 of the Zoning Ordinance for the B-6P zone, and is in a convenient location in order to serve the nearby neighborhoods without infringing upon their established boundaries.
2. This recommendation is made subject to approval and certification of ZDP 2015-81: Coons Property, Tract 1 (a portion of) (Amd.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

TLW/BJR/WLS
8/31/2015
Planning Services/Staff Reports/MAR/2015/MAR 2015-20.doc

2. CONTINENTAL REAL ESTATE ZONING MAP AMENDMENT & COONS PROPERTY, TRACT 1 (AMD) (A PORTION OF) ZONING DEVELOPMENT PLAN

- a. MAR 2015-20: CONTINENTAL REAL ESTATE (11/1/15)* - petition for a zone map amendment from a High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone, for 0.99 net (.16 gross) acres, for property located at 4251 Saron Drive (a portion of).

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 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 applicant proposes to construct a 4,000 square-foot commercial building for a restaurant with an accessory drive-through, in addition to a retail sales establishment.

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommends: Approval, for the following reasons:

1. The requested rezoning to a Planned Shopping Center (B-6P) zone is appropriate, and the existing High Density Apartment (R-4) zone is inappropriate for the subject property, for the following reasons:
 - a. The subject property is located adjacent to, and across Saron Drive from, properties that are currently located within a B-6P zone, and are developed as such. Therefore, the B-6P zone is compatible with the surrounding area.
 - b. The southern boundary of the subject property is defined by a significant stormwater and drainage feature and floodplain that creates a physical barrier to the remainder of the parcel to the south, which is currently under construction for an assisted living facility. As a result of these physical constraints, the subject property was not able to be utilized in the planning and development of the adjoining assisted living facility. This physical barrier is a more appropriate and recognizable land use buffer between the residential land use to the south and the commercial land use to the north in this instance.
 - c. As a stand-alone tract, the subject property is too small to be utilized for high density apartments, as suggested by its current zoning category, but is suitable for commercial development.
 - d. The proposed use and development is consistent with the provisions of Article 12 of the Zoning Ordinance for the B-6P zone, and is in a convenient location in order to serve the nearby neighborhoods without infringing upon their established boundaries.
2. This recommendation is made subject to approval and certification of ZDP 2015-81: Coons Property, Tract 1 (a portion of) (Amd.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

- b. ZDP 2015-81: COONS PROPERTY, TRACT 1 (A PORTION OF) (AMD) (11/1/15)* - located at 4251 Saron Drive. (Rich Design Studios)

Note: The purpose of this amendment is to rezone the property and add restaurant/retail uses.

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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Dimension access points to Saron Drive.
7. Dimension sidewalks on private property.
8. Denote construction access location.
9. Denote all development plan information existing and proposed for the entire property.
10. Addition of reference to Article 19 (floodplain elevations).
11. Discuss restaurant drive-through stacking and pick-up window location.
12. Discuss note #6 relative to proposed development.
13. Discuss proposed dumpster location.

Zoning Presentation: Ms. Wade presented the staff report on this requested zoning change, briefly orienting the Commission to the location of the subject property. She noted that the subject property is vacant; it is located across the street from the existing Tates Creek South Shopping Center, which is anchored by a Wal-Mart neighborhood

* - Denotes date by which Commission must either approve or disapprove request.

market. It is a portion of a larger parcel, which is currently under development with an assisted living facility. To the north is a gas station, also in a B-6P zone, and a number of outlots. A child care center is located further to the south of the subject property, along with mostly single-family residential dwelling units. There is still some vacant property in the area, along Chas Drive. Part of that property is under consideration for development as a medical office in the near future. Ms. Wade said that zoning in the vicinity includes B-6P to the north and east; R-4 for the property to the south and west; and a greenway immediately to the west, which is associated with West Hickman Creek.

Ms. Wade stated that the petitioner is proposing to rezone this portion of the subject property because it could not be incorporated into the assisted living facility site due to drainage and topographic issues along the zone change boundary. The petitioner is proposing the B-6P zone in order to create an outlot for the shopping center across the street, with a 4,000-square foot building and a drive-through.

With regard to the Comprehensive Plan recommendation, Ms. Wade explained that the 2013 Comprehensive Plan notes that compatibility is an important part of land use decisions. Since the adjoining B-6P zone is already developed, the staff agrees that B-6P zoning would help to provide consistency in the area. The staff and the Zoning Committee are recommending approval of this request, for the reasons listed in the staff report and on the agenda.

Development Plan Presentation: Ms. Galt presented the corollary zoning development plan, noting the portion of the property that is being developed as an assisted living facility. She explained that the petitioner is proposing a restaurant use for the subject property, with an associated drive-through.

Ms. Galt reviewed the Subdivision Committee recommendation, and noted that there was some discussion at the Committee meeting about the proposed locations for the drive-through and dumpster. The dumpster was originally proposed to be placed at an angle, which would not allow access for solid waste vehicles; the petitioner has agreed to revise the plan in order to straighten the approach to the dumpster. The staff wants to ensure that adequate stacking is provided for the drive-through, and that note #6 on the plan addresses the Division of Water Quality's requirements for the waterway.

Commission Questions: Mr. Owens asked if the three discussion items had been addressed. Ms. Galt answered that the petitioner had agreed to revise the plan in order to address those items, but had not yet provided the appropriate documentation for that revision. She added that note #6 refers to the hydrological study that was done for the entire property as part of the development of the assisted living facility.

Ms. Plumlee asked where the dumpster is proposed to be located. Ms. Galt answered that the dumpster location was originally proposed to be at an angle; the petitioner has indicated intent to revise the plan in order to meet the backup distance for the Division of Waste Management's vehicles. She again said that note #6 refers to the Division of Water Quality's control requirements, which were met based on a hydrology study done as part of the development of the assisted living facility.

Petitioner Presentation: Kevin Rich, Rich Design Studios, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendations.

Mr. Rich said that note #6, as referenced in condition #12, refers to a detention basin. The basin was constructed following a watershed analysis done as part of the construction of the assisted living facility. The analysis indicated that detention was not needed for the entire property, which was why no stormwater facilities were provided on the assisted living center site. Mr. Rich said that he had spoken with Hilliard Newman in the Division of Engineering, who indicated that he had no problems with the terminology of the note.

With regard to the dumpster location, Mr. Rich said that the angle of approach had been changed to accommodate Division of Solid Waste vehicles.

Commission Question: Mr. Owens asked if condition #11, concerning the drive-through on the property, had been addressed. Mr. Rich responded that he had worked with the Division of Traffic Engineering, and those issues had been addressed. Mr. Owens asked why the revised version of the plan was not before the Commission members at this hearing. Mr. Rich answered that the appropriate copies of the plan had not been provided to the staff.

Mr. Owens asked if the staff was comfortable with the information provided on the plan, even though a revised version had not been presented. Ms. Galt indicated that they were comfortable with recommending approval of the plan.

Zoning Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent) to approve MAR 2015-20, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 9-0 (Penn and Smith absent) to approve ZDP 2015-81, with the first 10 conditions as listed on the agenda, deleting conditions #11-13.

Rec'd by LD
Date: 10/9/15

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

IN RE: MAR 2015-20: CONTINENTAL REAL ESTATE - petition for a zone map amendment from a High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone, for 0.99 net (1.16 gross) acres, for property located at 4251 Saron Drive (a portion of). (Council District 8)

Having considered the above matter on September 24, 2015, at a Public Hearing, and having voted 9-0 that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County

Planning Commission does hereby recommend APPROVAL of this matter for the following reasons:

1. The requested rezoning to a Planned Shopping Center (B-6P) zone is appropriate, and the existing High Density Apartment (R-4) zone is inappropriate for the subject property, for the following reasons:
 - a. The subject property is located adjacent to, and across Saron Drive from, properties that are currently located within a B-6P zone, and are developed as such. Therefore, the B-6P zone is compatible with the surrounding area.
 - b. The southern boundary of the subject property is defined by a significant stormwater and drainage feature and floodplain that creates a physical barrier to the remainder of the parcel to the south, which is currently under construction for an assisted living facility. As a result of these physical constraints, the subject property was not able to be utilized in the planning and development of the adjoining assisted living facility. This physical barrier is a more appropriate and recognizable land use buffer between the residential land use to the south and the commercial land use to the north in this instance.
 - c. As a stand-alone tract, the subject property is too small to be utilized for high density apartments, as suggested by its current zoning category, but is suitable for commercial development.
 - d. The proposed use and development is consistent with the provisions of Article 12 of the Zoning Ordinance for the B-6P zone, and is in a convenient location in order to serve the nearby neighborhoods without infringing upon their established boundaries.
2. This recommendation is made subject to approval and certification of ZDP 2015-81: Coons Property, Tract 1 (a portion of) (Amd.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 9th day of October, 2015.


Secretary, Jim Duncan

MIKE OWENS
CHAIR

Note: The corollary development plan, ZDP 2015-81: Coons Property, Tract 1 (a portion of) (Amd.), was approved by the Planning Commission on September 24, 2015, and certified on October 6, 2015.

K.R.S. 100.211(7) requires that the Council take action on this request by December 23, 2015.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Kevin Rich, Landscape Architect.**

OBJECTIONS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

A YES: (9) Berkley, Brewer, Cravens, Drake, Mundy, Owens, Plumlee, Richardson, Wilson

NAYS: (0)

ABSENT: (2) Penn, Smith

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for APPROVAL of MAR 2015-20 carried.

Enclosures:

- Application
- Plat
- Staff Report
- Applicable excerpts of minutes of above meeting

MAR 2015-20

Date Received 8/3/15

Pre-Application Date 6/30/15

Filing Fee \$ 470.00

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)

APPLICANT: Continental Real Estate	150 E. Broad Street Columbus, Ohio 43215	(614) 221-1800
OWNER: Lexington Senior Housing, LLC	150 E. Broad Street Columbus, Ohio 43215	(614) 221-1800
ATTORNEY: --		

2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)

4251 Saron Drive, Lexington, Kentucky 40515 (a portion of)

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed--same format.)

Zoning	Existing Use	Zoning	Requested Use	Net	Gross
R-4	Vacant	B-6P	Retail, Restaurant	0.99	1.16

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Fueling Station (shell)	B-6P
East	Shopping Center	B-6P
South	Assisted Living Facility	R-4 w.CUP
West	Vacant / West Hickman Creek	R-4

5. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved? YES NO

b. Have any such dwelling units been present on the subject property in the past 12 months? YES NO

c. Are these units currently occupied by households earning under 40 % of the median income? YES NO
 If yes, how many units? _____ Units
 If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing. _____

6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)


Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by Developer	<input type="checkbox"/> Other
Storm Sewers	<input type="checkbox"/> Existing	<input checked="" type="checkbox"/> To be constructed by Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUGC	<input type="checkbox"/> Other	
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

7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)

This is in... in agreement with the Comp. Plan more appropriate than the existing zoning due to unanticipated changes.

8. APPLICANT/OWNER SIGNS THIS CERTIFICATION

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am OWNER or HOLDER of an agreement to purchase this property since _____

APPLICANT  _____ DATE 8/3/15

OWNER _____ DATE _____

LFUGC EMPLOYEE/OFFICER, if applicable _____ DATE _____

RICH DESIGN STUDIOS

August 3, 2015

Lexington-Fayette Urban County Planning Commission
Division of Planning – Planning Services Section
200 E. Main Street
Lexington, Kentucky 40507

RE: Saron Drive Property - North Property (Lot 1, Tract 2) – Statement of Justification

On behalf of the applicant, Continental Real Estate, I present this Statement of Justification as a part of the Zone Map Amendment Request (MAR) Application for the above mentioned project.

The subject property, Lot 1 Tract 2 of 4251 Saron Drive, Lexington, Kentucky 40515, is currently zoned High Density Apartments (R-4) and the applicant is requesting a zone change to Planned Shopping Center (B-6P). The proposed land-use, as shown on the preliminary development plan filed with this zone change, is as a two-unit building consisting of a restaurant with drive-thru and retail services. Lot 1 Tract 2 is 0.99 acres in size, is currently vacant, and is owned by Lexington Senior Housing, LLC a subsidiary of Continental Real Estate.

The remaining 4.24 acre south property, Lot 1 Tract 1, is currently under construction as an assisted living facility by the Owner under a Conditional Use Permit granted on August 22, 2014 and Final Development Plan approved on March 12, 2015.

The assisted living facility property is effectively separated from the north property due to existing topographic and flood plain constraints. As a result, the 0.99 acre north property was unable to be utilized in the planning and development of the assisted living facility. As a stand-alone tract of land, the north property is too small to be utilized for high-density apartments and is therefore no longer appropriate for R-4 zoning and is more suited to the B-6P zoning proposed by the Applicant. The adjacent properties to the north, a Shell fueling station, as well as to the east (across Saron Drive), the Tates Creek South Shopping Center, are both zoned B-6P. Lot 1 Tract 1 to the south shall remain under the Conditional Use Permit for the assisted living facility and the property to the west is the undevelopable floodplain for West Hickman Creek.

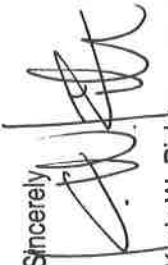
The zone change request to B-6P is appropriate for this property as outlined above and is in compliance with the 2013 Comprehensive Plan. The proposed zone change and land-uses are consistent with the intent of the Planned Shopping Center (B-6P) zone through the location of additional commercial property in close proximity to existing commercial properties in a convenient location. This assures convenience by providing commercial areas in the proper location relative to established residential neighborhoods in order to serve the people of the area conveniently.

The proposed uses of a restaurant and retail services will also aid in improving the economic base and tax structure of the Lexington Metropolitan Area through the creation of jobs and prosperity to its residents. The proposed development will promote economically sound planning and commercial uses that are in close proximity to supporting and/or similar uses. Thereby being compatible with the existing zoning surrounding the subject property. Additionally, the proposed development of Lot 1 Tract 2 will meet current market demands for jobs as encouraged in the 2013 Comprehensive Plan.

RICH DESIGN STUDIOS

For the reasons stated within this letter and the Map Amendment Request application submittal, the applicant hereby requests approval of a zone change for Lot 1 Tract 2, located at 4251 Saron Drive, Lexington, Kentucky 40515, from High Density Apartments (R-4) to Planned Shopping Center (B-6P) and approval of the associated Preliminary Development Plan also submitted.

Thank you for your consideration of the Applicants zone change request. Please do not hesitate to contact me with any questions or should additional information be required.

Sincerely,


Kevin W. Rich, ASLA, APA, CLARB
Principal

LEGAL DESCRIPTION

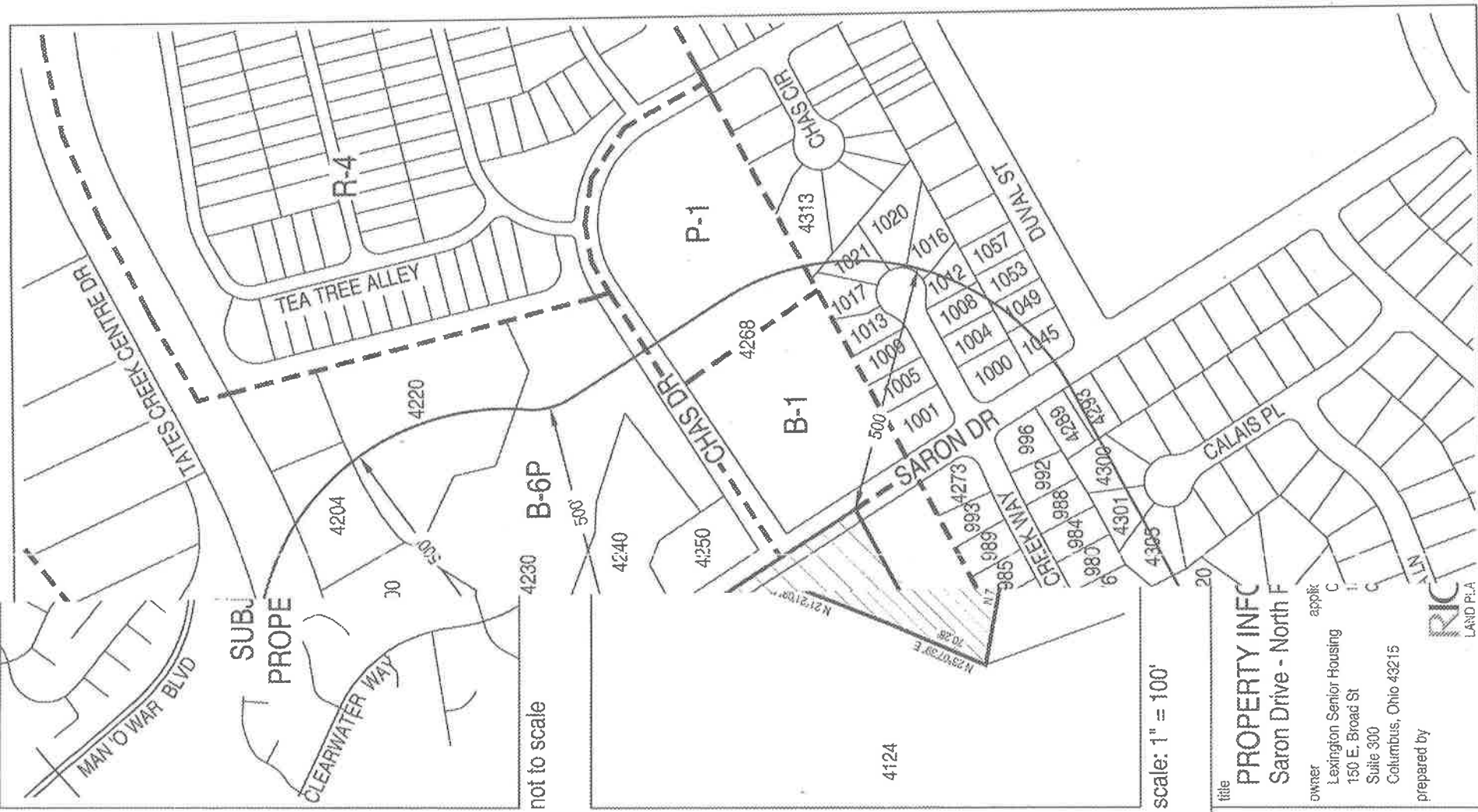
Lexington Senior Housing, LLC
Zone Change for Lot 1, Tract 2 from R-4 to B-6P
4251 Saron Drive
Lexington, Fayette County, Kentucky

All that tract of land on the west side of Saron Drive in Lexington, Fayette County, Kentucky, and being a part of Lot No. 1 of the Coons Property to the City of Lexington as shown on plat of record in Plat Cabinet "K" Slide "306" and being more fully described by survey as follows:

BEGINNING at a found iron pin with cap stamped "LS 2442" on the west right-of-way of Saron Drive and being the common corner with Lot No.1 and Lot No.7 in the western right-of-way of Saron Drive as shown in Plat Cabinet "K" Slide "306";

- 1) Leaving the right-of-way S 85°23'30" E a distance of 31.55 feet to the centerline of Saron Drive;
- 2) Thence with the centerline, a curve turning to the right with an arc length of 58.79 feet, with a radius of 500 feet, with a chord bearing of S 01°14'23" W, with a chord length of 58.76 feet;
- 3) Thence with the centerline, a curve turning to the left with an arc length of 163.41 feet, with a radius of 500 feet, with a chord bearing of S 04°45'16" E, with a chord length of 162.69 feet;
- 4) Thence leaving the centerline S 79°48'40" W a distance of 30.89 feet to the west right-of-way of Saron Drive;
- 5) Thence leaving the right-of-way, S 79°48'40" W a distance of 108.17 feet to a set rebar;
- 6) N 79°34'21" W a distance of 129.84 feet to a found iron pin with cap stamped "LS 2115";
- 7) N 23°07'39" E a distance of 70.28 feet to a set rebar;
- 8) N 21°21'09" E a distance of 129.86 feet to a set rebar;
- 9) N 07°21'04" E a distance of 50.59 feet to a found iron pin with cap stamped "LS 2115";
- 10) S 85°23'30" E a distance of 140.00 feet to a found iron pin with cap stamped "LS 2442"; being the point of BEGINNING, having an area of 1.16 acres, of which 0.17 acres is right-of-way, and the 0.99 acres being a portion of the property conveyed to Lexington Senior Housing, LLC of record in Deed Book 3302, Page 435 in the Fayette County Clerk's Office, Fayette County, Kentucky.

The bearings in this description are based on the plat of record in Plat Cabinet "K" Slide "306". All deeds and plats referenced hereon are of record in the Fayette County Clerk's Office, Fayette County, Kentucky.

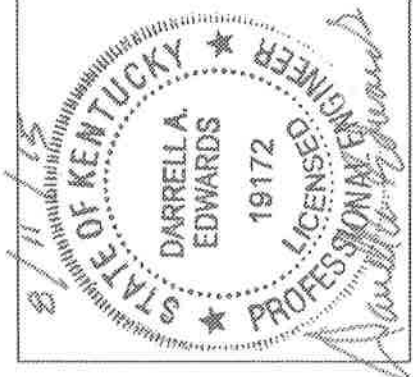


not to scale

scale: 1" = 100'

title
PROPERTY INFC
 Saron Drive - North F

 owner
 Lexington Senior Housing C
 150 E. Broad St
 Suite 300
 Columbus, Ohio 43215
 prepared by
RIC
 LAND P.L.A.



STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2015-20: CONTINENTAL REAL ESTATE

DESCRIPTION

Zone Change: From a High Density Apartment (R-4) zone
To a Planned Shopping Center (B-6P) zone

Acreage: 0.99 net (1.16 gross) acre

Location: 4251 Saron Drive (a portion of)

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-4	Vacant
To North	B-6P	Convenience Store & Gas Station
To East	B-6P	Shopping Center
To South	R-4	Assisted Living Facility (under construction)
To West	R-4	Greenway/West Hickman Creek

URBAN SERVICES REPORT

Roads – The subject property is located on the west side of Saron Drive, approximately 400 feet south of the signalized intersection of Saron Drive and Man o' War Boulevard. Saron Drive is a collector street that runs from Man o' War Boulevard toward the southeast through the Veterans Park area, generally located between West Hickman Creek to the west and Bates Creek Road (KY 1974) to the east.

Curb/Gutter/Sidewalks – Curb, gutters and sidewalks exist along Saron Drive.

Storm Sewers – The subject property is located within the West Hickman watershed. The West Hickman Creek is located immediately to the west of the subject site. A FEMA Special Flood Hazard Areas exists along the creek, and extends onto the southwest corner of the subject property. Stormwater issues have been documented at the intersection of Saron and Chas Drives during the past decade; however, stormwater improvements are currently underway along the southern property line of the subject property; associated with development of an assisted living facility immediately south of this location.

Sanitary Sewers – The property is located within the West Hickman sewershed and is serviced by the West Hickman sewage treatment facility, located in northern Jessamine County, about two miles to the south of this location. Sanitary sewers currently serve the immediate area, and the southern portion of the parcel. If any improvements to these sewers are required to adequately serve the development of the property, the Engineering Manuals will need to be followed.

Refuse – The Urban County Government provides refuse collection to residences within this portion of the Urban Service Area on Mondays, although commercial developments oftentimes contract with private haulers for more frequent refuse collection.

Police – The property is located within Police Sector 3 and is served by the East Sector Roll Call Center. This police station is located on Centre Parkway, about 1½ miles to the northeast of the property.

Fire/Ambulance – Fire Station #22 is the closest fire station to the subject property, located about ½ mile to the south on Clearwater Way.

Utilities – All utilities, including electric, gas, water, telephone, and cable service are available to serve the subject property.

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 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 applicant proposes to construct a 4,000 square-foot commercial building for a restaurant with an accessory drive-through, in addition to a retail sales establishment.

CASE REVIEW

The petitioner has requested a zone change from a High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone for about one acre of property, which is a portion of 4251 Saron Drive.

The subject property is located on the west side of Saron Drive, about 400 feet from its signalized intersection with Man o' War Boulevard. In whole, the property is 5.22 acres in size, although only 0.99 acre is proposed for rezoning by the petitioner. Just to the east, across Saron Drive, is the Tates Creek South Shopping Center, which is anchored by a Wal-Mart Neighborhood Market store, and to the north is a convenience store and gas station (both zoned B-6P). South of the subject property is the remainder of the property, which is currently being developed with an assisted living facility (zoned R-4). A childcare center lies further to the south along Saron Drive. West of the subject property is the West Hickman Creek and its associated greenway and floodplain.

The petitioner proposes to construct a one-story commercial building and associated off-street parking. The corollary development plan proposes a restaurant with a drive-through facility, and a retail sales establishment, for a total of 4,000 square feet of space.

The subject property was part of a larger zone change of the Joe Coons farm, approved in 1990 from agricultural to the High Density Apartment and Planned Shopping Center zones for the southwestern portion of the Tates Creek Road and Man o' War Boulevard intersection.

The 2013 Comprehensive Plan focuses on general land use policies, such as land use compatibility, well-designed neighborhoods; improving a desirable community; and making the best use of land inside the Urban Service Boundary for the protection of the surrounding rural areas, but no longer utilizes a land use map.

The Plan does not address modest or minor changes in commercial land use that have a negligible impact on job creation; therefore, the applicant contends that the proposed rezoning is appropriate and the existing rezoning is no longer appropriate for the subject property. The applicant states that the property is not appropriate for R-4 zoning because the subject property (0.99 acre) is separated from the rest of the parcel due to physical features of the property, including a significant and existing topographic swale, which is coincident with a designated floodplain. As a result of these physical constraints, the subject property was not able to be utilized in the planning and development of the adjoining assisted living facility. Additionally, as a stand-alone tract, the property is too small to be utilized for high density apartments, or any other high-density residential use, as suggested by its current zoning category.

The applicant opines that the proposed B-6P zone is appropriate in that it is adjacent to properties already located within the same zoning category to the north and east, across Saron Drive. The physical boundary created by the floodplain and steep topography is a more appropriate and recognizable land use buffer between the residential land use to the south and the commercial land use in this instance. The proposed use and development can be provided with the provisions of the B-6P zone, and it is in a convenient location in order to serve the nearby neighborhoods without infringing upon their established boundaries.

The staff agrees with the applicant's justification and assessment that the existing R-4 zone is inappropriate and the proposed B-6P zone is appropriate for the subject property.

The Staff Recommends: Approval, for the following reasons:

1. The requested rezoning to a Planned Shopping Center (B-6P) zone is appropriate, and the existing High Density Apartment (R-4) zone is inappropriate for the subject property, for the following reasons:
 - a. The subject property is located adjacent to, and across Saron Drive from, properties that are currently located within a B-6P zone, and are developed as such. Therefore, the B-6P zone is compatible with the surrounding area.
 - b. The southern boundary of the subject property is defined by a significant stormwater and drainage feature and floodplain that creates a physical barrier to the remainder of the parcel to the south, which is currently under construction for an assisted living facility. As a result of these physical constraints, the subject property was not able to be utilized in the planning and development of the adjoining assisted living facility. This physical barrier is a more appropriate and recognizable land use buffer between the residential land use to the south and the commercial land use to the north in this instance.
 - c. As a stand-alone tract, the subject property is too small to be utilized for high density apartments, as suggested by its current zoning category, but is suitable for commercial development.
 - d. The proposed use and development is consistent with the provisions of Article 12 of the Zoning Ordinance for the B-6P zone, and is in a convenient location in order to serve the nearby neighborhoods without infringing upon their established boundaries.
2. This recommendation is made subject to approval and certification of ZDP 2015-81: Coons Property, Tract 1 (a portion of) (Amd.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

TLW/BJR/WLS
8/31/2015
Planning Services/Staff Reports/MAR/2015/MAR 2015-20.doc

2. CONTINENTAL REAL ESTATE ZONING MAP AMENDMENT & COONS PROPERTY, TRACT 1 (AMD) (A PORTION OF) ZONING DEVELOPMENT PLAN

- a. MAR 2015-20: CONTINENTAL REAL ESTATE (11/1/15)* - petition for a zone map amendment from a High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone, for 0.99 net (1.16 gross) acres, for property located at 4251 Saron Drive (a portion of).

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 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 applicant proposes to construct a 4,000 square-foot commercial building for a restaurant with an accessory drive-through, in addition to a retail sales establishment.

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommends: Approval, for the following reasons:

1. The requested rezoning to a Planned Shopping Center (B-6P) zone is appropriate, and the existing High Density Apartment (R-4) zone is inappropriate for the subject property, for the following reasons:
 - a. The subject property is located adjacent to, and across Saron Drive from, properties that are currently located within a B-6P zone, and are developed as such. Therefore, the B-6P zone is compatible with the surrounding area.
 - b. The southern boundary of the subject property is defined by a significant stormwater and drainage feature and floodplain that creates a physical barrier to the remainder of the parcel to the south, which is currently under construction for an assisted living facility. As a result of these physical constraints, the subject property was not able to be utilized in the planning and development of the adjoining assisted living facility. This physical barrier is a more appropriate and recognizable land use buffer between the residential land use to the south and the commercial land use to the north in this instance.
 - c. As a stand-alone tract, the subject property is too small to be utilized for high density apartments, as suggested by its current zoning category, but is suitable for commercial development.
 - d. The proposed use and development is consistent with the provisions of Article 12 of the Zoning Ordinance for the B-6P zone, and is in a convenient location in order to serve the nearby neighborhoods without infringing upon their established boundaries.
2. This recommendation is made subject to approval and certification of ZDP 2015-81: Coons Property, Tract 1 (a portion of) (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

- b. ZDP 2015-81: COONS PROPERTY, TRACT 1 (A PORTION OF) (AMD) (11/1/15)* - located at 4251 Saron Drive. (Rich Design Studios)

Note: The purpose of this amendment is to rezone the property and add restaurant/retail uses.

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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Dimension access points to Saron Drive.
7. Dimension sidewalks on private property.
8. Denote construction access location.
9. Denote all development plan information existing and proposed for the entire property.
10. Addition of reference to Article 19 (floodplain elevations).
11. Discuss restaurant drive-through stacking and pick-up window location.
12. Discuss note #6 relative to proposed development.
13. Discuss proposed dumpster location.

Zoning Presentation: Ms. Wade presented the staff report on this requested zoning change, briefly orienting the Commission to the location of the subject property. She noted that the subject property is vacant; it is located across the street from the existing Tates Creek South Shopping Center, which is anchored by a Wal-Mart neighborhood

* - Denotes date by which Commission must either approve or disapprove request.

market. It is a portion of a larger parcel, which is currently under development with an assisted living facility. To the north is a gas station, also in a B-6P zone, and a number of outlots. A child care center is located further to the south of the subject property, along with mostly single-family residential dwelling units. There is still some vacant property in the area, along Chas Drive. Part of that property is under consideration for development as a medical office in the near future. Ms. Wade said that zoning in the vicinity includes B-6P to the north and east; R-4 for the property to the south and west; and a greenway immediately to the west, which is associated with West Hickman Creek.

Ms. Wade stated that the petitioner is proposing to rezone this portion of the subject property because it could not be incorporated into the assisted living facility site due to drainage and topographic issues along the zone change boundary. The petitioner is proposing the B-6P zone in order to create an outlot for the shopping center across the street, with a 4,000-square foot building and a drive-through.

With regard to the Comprehensive Plan recommendation, Ms. Wade explained that the 2013 Comprehensive Plan notes that compatibility is an important part of land use decisions. Since the adjoining B-6P zone is already developed, the staff agrees that B-6P zoning would help to provide consistency in the area. The staff and the Zoning Committee are recommending approval of this request, for the reasons listed in the staff report and on the agenda.

Development Plan Presentation: Ms. Galt presented the corollary zoning development plan, noting the portion of the property that is being developed as an assisted living facility. She explained that the petitioner is proposing a restaurant use for the subject property, with an associated drive-through.

Ms. Galt reviewed the Subdivision Committee recommendation, and noted that there was some discussion at the Committee meeting about the proposed locations for the drive-through and dumpster. The dumpster was originally proposed to be placed at an angle, which would not allow access for solid waste vehicles; the petitioner has agreed to revise the plan in order to straighten the approach to the dumpster. The staff wants to ensure that adequate stacking is provided for the drive-through, and that note #6 on the plan addresses the Division of Water Quality's requirements for the waterway.

Commission Questions: Mr. Owens asked if the three discussion items had been addressed. Ms. Galt answered that the petitioner had agreed to revise the plan in order to address those items, but had not yet provided the appropriate documentation for that revision. She added that note #6 refers to the hydrological study that was done for the entire property as part of the development of the assisted living facility.

Ms. Plumlee asked where the dumpster is proposed to be located. Ms. Galt answered that the dumpster location was originally proposed to be at an angle; the petitioner has indicated intent to revise the plan in order to meet the backup distance for the Division of Waste Management's vehicles. She again said that note #6 refers to the Division of Water Quality's control requirements, which were met based on a hydrology study done as part of the development of the assisted living facility.

Petitioner Presentation: Kevin Rich, Rich Design Studios, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendations.

Mr. Rich said that note #6, as referenced in condition #12, refers to a detention basin. The basin was constructed following a watershed analysis done as part of the construction of the assisted living facility. The analysis indicated that detention was not needed for the entire property, which was why no stormwater facilities were provided on the assisted living center site. Mr. Rich said that he had spoken with Hillard Newman in the Division of Engineering, who indicated that he had no problems with the terminology of the note.

With regard to the dumpster location, Mr. Rich said that the angle of approach had been changed to accommodate Division of Solid Waste vehicles.

Commission Question: Mr. Owens asked if condition #11, concerning the drive-through on the property, had been addressed. Mr. Rich responded that he had worked with the Division of Traffic Engineering, and those issues had been addressed. Mr. Owens asked why the revised version of the plan was not before the Commission members at this hearing. Mr. Rich answered that the appropriate copies of the plan had not been provided to the staff.

Mr. Owens asked if the staff was comfortable with the information provided on the plan, even though a revised version had not been presented. Ms. Galt indicated that they were comfortable with recommending approval of the plan.

Zoning Action: A motion was made by Mr. Crawens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent) to approve MAR 2015-20, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 9-0 (Penn and Smith absent) to approve ZDP 2015-81, with the first 10 conditions as listed on the agenda, deleting conditions #11-13.

