

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-18-00004: THE FOUNTAINS AT PALOMAR, LLC

DESCRIPTION

Zone Change:	<u>Request</u>	<u>Acreage</u>		
	<u>From</u>	<u>To</u>	<u>Net</u>	<u>Gross</u>
	A-U	B-3 with cz	12.23	15.52
	B-1 with cz	B-3 with cz	<u>4.17</u>	<u>5.16</u>
		TOTAL:	16.40	20.68

Location: 3801, 3901 and 3955 Harrodsburg Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Properties	A-U & B-1	Vacant Church, Neighborhood Commercial
To North	R-3	Single Family Residential
To East	B-6P	Palomar Shopping Centre
To South	R-1C & R-1D	Single Family Residential
To West	A-U	Masonic Lodge

URBAN SERVICES REPORT

Roads – The subject properties are bordered to the south by Harrodsburg Road (US 68) and to the east by Man O’ War Boulevard. Harrodsburg Road is a major five-lane, divided arterial roadway at this location, and is one of two major commuter routes connecting Jessamine and Fayette Counties. It continues northward into downtown and becomes South Broadway. When Harrodsburg Road was widened in 2005, the Kentucky Transportation Cabinet purchased the access rights along the Harrodsburg Road frontage. The existing access points (two along Harrodsburg Road) are proposed for reconfiguration to a right-in/right-out (approximately 500 feet from the intersection of Man O’ War Boulevard and Harrodsburg Road), and a full signalized intersection (approximately 1,000 feet from the same intersection). Man O’ War Boulevard is a four-lane, boulevard that connects the arterial roadways (spoke system) on the southern side of the community, outside of New Circle Road (KY 4). A right-in/right-out access is also proposed along Man O’ War Boulevard, at its northern most point, over 1,000 feet from its signalized intersection with Harrodsburg Road. Glade Court, a local street within the Palomar subdivision, stubs into the site from the north, and connects the site, via Glade Lane to Lyon Drive, which has a signalized intersection with Man O’ War Boulevard. The applicant currently proposes to terminate Glade Court without an appropriate termination per the Land Subdivision Regulations.

Curb/Gutter/Sidewalks – Harrodsburg Road does not have curbs or gutters, but sidewalks have been constructed along the frontage of the subject site. Man O’ War Boulevard, and the other residential streets in the adjacent Palomar Subdivision, do have curbs, gutters and sidewalks. Glade Lane, Glade Court and Maura Trace were constructed as access easements with sidewalks only on one side of the street, but with curb and gutter improvements. These typical urban improvements will need to be constructed along internal access drives by the developer at the time of development of the subject property.

Storm Sewers – The subject property is located within the South Elkhorn watershed. Storm sewers and basins are required to be constructed by the developer in accordance with the LFUCG Engineering Manuals to protect water quality. The corollary development plan filed in conjunction with this zone change proposes a water feature at the corner of Harrodsburg Road and Man O’ War Boulevard, as well as at the main entrance from Harrodsburg Road. Stormwater detention is proposed underground at multiple locations throughout the site. The FEMA Digital Flood Insurance Rate Maps (D-FIRMs) do not indicate that

a Special Flood Hazard Area (floodplain) exists on the subject property. There are known flooding problems that occur along the South Elkhorn Creek and its tributaries to the north and west of the site, within the Palomar area. Development on the subject property will not be allowed to exacerbate any known flooding problems on the site or nearby.

Sanitary Sewers – This property is located in the South Elkhorn sewershed and is served by the West Hickman Wastewater Treatment Facility, in northern Jessamine County. The residential properties in the adjoining subdivisions are currently served by sanitary sewers. Extension of the sanitary sewer system will need to be built by the developer in accordance with the adopted Engineering Manuals. The South Elkhorn pump station was improved after experiencing periodic overflow problems during peak flow times in the past. The Capacity Assurance Program indicates the South Elkhorn pump station sewer bank currently has over 100,000 gallons per day of available capacity.

Refuse – This area is served by the Urban County Government with refuse collection on Mondays. Commercial development often contracts for private refuse service on a more frequent basis.

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

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

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

COMPREHENSIVE PLAN AND PROPOSED USE

The 2018 Comprehensive Plan's mission statement is to "provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development." The Plan's mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The 2018 Comprehensive Plan Goals and Objectives were recently adopted in November 2017. The Goals and Objectives encourage a mix of uses, housing types and/or residential densities within the Urban Service Area boundary; promote well-designed neighborhoods and communities; ensure all types of development are environmentally, economically, and socially sustainable to accommodate future growth needs of all residents; emphasize redevelopment of underutilized corridors; promote redevelopment of underutilized land in a manner that enhances existing urban form; support the Complete Streets concept, prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit and other vehicles; and provision of land for a diverse workforce, with emphasis on success and growth of strategically-targeted employment sectors. In addition, the body of the 2013 Comprehensive Plan reinforces these or similar concepts.

The petitioner proposes a rezoning to Highway Services Business (B-3) zone with conditional zoning restrictions in order to construct a community shopping center with a hotel, and its associated off-street parking areas.

CASE REVIEW

The petitioner has requested a zone change from a Neighborhood Business (B-1) zone with conditional zoning restrictions and from an Agricultural Urban (A-U) zone, to a Highway Service Business (B-3) zone with conditional zoning restrictions for approximately 20+ net acres of property.

The subject property is situated in the southwest corner of the intersection of Harrodsburg Road (US 68) and Man O' War Boulevard. The site is comprised of three parcels, all of which have been developed since 1980, but have struggled to achieve economic success for one reason or another. The subject site is currently accessible from Harrodsburg Road in two locations, and has a stub street into it from Glade Lane in the Palomar Subdivision. Vehicular access is planned solely from the major roadways of Man O' War Boulevard and Harrodsburg Road. The subject site is bounded to the north by the Palomar subdivision (R-

1C, R-1D, R-1T and R-3 zones), to the east by the Palomar Shopping Centre (B-6P zone), to the south by the Plantation Subdivision (R-1C and R-1D zones), and to the west by the Masonic Temple (A-U zone).

The parcel located at the eastern edge of the subject property, closest to the corner of Harrodsburg Road and Man O' War Boulevard, has been utilized by Christ United Methodist Church for over 35 years. The Hoover Property (comprised of the two parcels that have frontage along Harrodsburg Road) has been converted from residential to commercial to allow for neighborhood commercial development. In 1998, the Hoover Property was requested for a rezoning to B-1 to allow the farmhouse to be preserved and converted to a sit-down restaurant (Homestead and then Murray's). The request was not supported by the staff since the site had been recommended for residential future land use by the previous Comprehensive Plans. The Urban County Planning Commission and Urban County Council ultimately approved the zone change, but applied numerous conditional zoning restrictions to protect the integrity and character of the site, stating that "the proposed freestanding restaurant would preserve open space." At that time, over two acres of the Hoover Property remained vacant, the structure was required to be preserved, and numerous mature trees were being protected via the conditional zoning restrictions.

In 2006, the remaining Hoover Property was requested for further commercial development to compliment what was then a fledgling restaurant. In order to accomplish the developer's vision, the conditional zoning restrictions needed to be significantly altered. The staff again did not recommend expanding the commercial use of the Hoover Property because the applicant had not met the statutory requirement of the Zoning Ordinance to modify conditional zoning restrictions and their request was contrary to the intent of the original conditional zoning restrictions. The Urban County Planning Commission and the Urban County Council approved the request, and now the applicant notes in their justification statement that the former restaurant and small shopping center "have struggled for economic survival since the property was rezoned B-1," which does not surprise the staff since this area was never intended for commercial development.

Due to these two zoning changes on a portion of the subject site, and more recent requests for a mixed-use development on the Ethington & Ethington Property at the future extension of Madrone Way (south) and multiple rezonings near Wellington Way (north), the Harrodsburg Road corridor is gradually becoming more commercial in nature, as agricultural or residential tracts are proposed for development.

The petitioner is requesting a Highway Service Business (B-3) zone for the entire site. In doing so, they appear to be requesting to maintain some of the conditional zoning restrictions that are currently in place for the Hoover Property portion of site (Lot 7), and adding other restrictions for the remainder of the property. The petitioner proposes an un-named organic grocery store (potential anchor store), a hotel, a pharmacy/retail store, small scale retail spaces, and six restaurants, for a total of about 214,200 square feet of space in a typical suburban shopping center layout. The two tallest buildings (anchor store at 45 feet and hotel at 75 feet) are sited adjacent to the single-family residences along Palomar Cove Lane and Glade Lane. Glade Court, a stub street located on the north side of the property, is not proposed to be extended, and no new commercial uses are proposed to directly access Harrodsburg Road or Man O' War Boulevard. A traffic study was required in association with the proposed zone change.

The 2018 Comprehensive Plan Goals and Objectives encourage a mix of uses, housing types and/or residential densities within the Urban Service Area boundary (Theme A, Goals #1b. and #2a.); promote well-designed neighborhoods and communities (Theme a, Goal #3); ensure all types of development are environmentally, economically, and socially sustainable to accommodate future growth needs of all residents (Theme E, Goal #1b.); emphasize redevelopment of underutilized corridors (Theme E, Goal #1c.); promote redevelopment of underutilized land in a manner that enhances existing urban form (theme E, Goal #1d.); support the Complete Streets concept, prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit and other vehicles (Theme D, Goal #1a.); concentrate efforts to enhance mass transit along our corridors in order to facilitate better service for our growing population, as well as efficiencies in our transit system (Theme C, Goal #1c.); and provision of land for a diverse

workforce, with emphasis on success and growth of strategically-targeted employment sectors (Theme C, Goal #2a.). In addition, the body of the 2013 Comprehensive Plan reinforces these or similar concepts and encourages “placemaking” in *Chapter 3: Growing Successful Neighborhoods*.

Previous Comprehensive Plan’s future land use maps have historically recommended either residential or semi-public future land use for the subject site, until 2001 when the Hoover Property was recognized for Retail Trade and Personal Services (RT) following the 1998 zone change.

The petitioner contends that the requested restricted B-3 zone is in agreement with the Comprehensive Plan, and that the existing B-1 and A-U zoning are not appropriate, while the proposed B-3 zone is appropriate. Although the petitioner makes a lengthy case for why the existing zoning is not appropriate, they do not make any such statement about the appropriateness of the B-3 zone. The petitioner lists numerous goals and objectives, but provides very little explanation as to how such aspects of the Comprehensive Plan are being met by the proposed zone change.

While some business zoning and land use may be compatible at this location, which is situated at the intersection of Harrodsburg Road and Man O’ War Boulevard, the staff does not believe that the proposed Highway Service Business (B-3) zone is the most appropriate zoning category for the subject property and cannot find that it is in agreement with the Comprehensive Plan.

The B-3 zone is intended to be located along the community’s highly traveled major arterial roadways, such as Nicholasville Road, Richmond Road, and New Circle Road. Man o’ War Boulevard (like Citation Boulevard on the north side of the community) is a minor arterial roadway that serves to connect the major arterials, but where the highest intensity land uses should not, and have not, been located. Only a few exceptions exist where B-3 zoning abuts Man o’ War Boulevard (along Nicholasville Road and at Hamburg – both part of regional shopping centers) or Harrodsburg Road (part of the Beaumont development which is a mixed-use, planned development for over 600 acres at the intersection of New Circle Road). B-3 zoning is not generally considered a good neighbor adjacent to low density residential neighborhoods. The petitioner’s response to what the staff considers an inappropriate land use relationship (tallest structures on the proposed development plan located in close proximity to an established neighborhood) is to propose an eight-foot wall to “buffer” an entrance drive and loading docks, rather than placing structures with the greatest height farther from the established residential neighborhood. Man O’ War Boulevard is envisioned to have neighborhood-oriented services and focal points that can serve nearby neighborhoods (such as neighborhood shopping centers and amenities), but the most intense uses, and zones, should be reserved for our most intense corridors, not infringing on residential neighborhoods. Most importantly, the petitioner has not demonstrated that the B-3 zone is the right fit at this location, or that their development is neighborhood-oriented in the least. In fact, they do not even want a neighborhood connection (which could create more synergy with the commercial development and reduce congestion) from the Palomar Subdivision.

These concerns are supported by the text of the 2013 Comprehensive Plan. The “placemaking” principles of the Plan, provided in *Chapter 3: Growing Successful Neighborhoods*, include creating an inviting streetscape, providing varied housing choice, establishing abundant private and public open space, creating neighborhood focal points, and establishing quality connections with parks, schools and stores (page 39). More specifically, the Comprehensive Plan states that “placemaking and walkability are important to the success of Lexington and its neighborhoods. A variety of best practice reviews show that property values tend to be higher in more walkable neighborhoods that contain a mix of nearby destination connected by pedestrian-friendly streets.” The Plan goes on to discuss the importance of neighborhood focal points, which can be a gathering point such as a park, a shopping center, a community center or public square. In establishing these focal points for neighborhoods, multimodal access from the neighborhood is critical instead of development that turns its back on a community asset. The B-3 zone is by definition auto-centric, and the corollary development plan illustrates that well. Being able to walk to a site is not the same as creating a walkable development.

While the staff cannot support B-3 zoning at this location, the recently updated Commercial Center (B-6P) zone (formerly the Planned Shopping Center zone) or the Mixed-Use Community (MU-3) zone would be considered appropriate for the site and compatible with the adjoining zoning and land uses in this vicinity. The B-6P and MU-3 zones were established to create the desired focal point for the neighborhoods, and meet the “placemaking” standards established in the Comprehensive Plan. The subject site is a critical location for the concept of emphasizing redevelopment along our underutilized corridors, to enhance the urban form, and to create an activity center that accommodates the future needs (not those from past decades) of our community. The proposed development is not an efficient use of our limited land inside of the Urban Service Area, and the staff does not want to miss an opportunity to create more than a typical suburban shopping center. Both of these zones support the intensification of the corridors by allowing higher floor area ratios, and buildings closer to the street network, rather than abutting the adjoining neighborhoods. In addition, both of the zones either allow for or require a mixture of commercial and residential land use, which generally supports the transit system. The proposed development does not encourage transit use, nor does it allow for transit to move through the property.

The proposed development, as depicted in the corollary development plan, may create a neighborhood business opportunity, but the allowed land uses in the B-3 zone, even considering the restriction offered by the petitioner, would be out of character with the surrounding area and could have a negative impact on the adjoining land uses. Also of concern is the fact that commercial developments should be offering more entertainment and social connection opportunities, yet the petitioner is proposing to prohibit those uses that would invite the surrounding community to experience the development (carnivals, special events, festivals, and concerts; commercial farm markets and market gardens; indoor amusement, such as bowling alleys, dancing establishments, skating rinks, miniature golf, billiard halls; nightclubs; and athletic facilities). National trends indicate that traditional retail shopping centers are suffering, yet successful developments make the commercial center an experience.

Lastly, there have not been any unanticipated changes of an economic, physical, or social nature within the area that have substantially altered the basic character of the area since the Comprehensive Plan was adopted in 2013 that would support the requested zone change application. Although the failure of the local businesses and the churches were not anticipated, such an economic change does not lead the Commission to approve any desired zone change request, but rather an appropriate zone change request, one which the staff has already outlined as more appropriate for this location, such as the B-6P or MU-3 zones.

Further consideration should be given to an alternative zone change request, one that is supported by the Comprehensive Plan and would complement the existing neighborhood and character of the area. There is support for redevelopment of the site, but development must meet the vision of the Plan. For this reason, the staff recommends disapproval of the current requested zone change.

The Staff Recommends: **Disapproval**, for the following reasons:

1. The proposed Highway Services Business (B-3) zone is inappropriate for the subject property for the following reasons:
 - a. The proposed zoning category is not compatible with the single-family residential development in the Palomar neighborhood.
 - b. The allowed uses in the B-3 zone, even with the proposed restrictions, are not appropriate along a minor arterial roadway, which is intended as a connector between the major arterial corridors within our community. Generally, uses such as hotels, car washes, major and minor auto repair, automobile sales (even electric autos), etc. should not be located in such close proximity to residential land and are often restricted by the Planning Commission and Council during zone change requests.
 - c. The Highway Services Business (B-3) zone is intended to be located along the highways within our community, which are generally the major arterial roadways. Although Harrodsburg Road is a

highway, the traffic counts at this location are that of a minor arterial roadway. Other B-3 locations within the community are either part of a unified plan that supports placemaking (such as Beaumont), or are part of a regional shopping center. The subject property does not satisfy either of these standards.

- d. The petitioner should consider the B-6P or MU-3 zone for this location, as both would be considered appropriate for the site and offer a wider range of land uses than the proposed B-3 zone. Both of these two zones allow for a more efficient use of the limited land available inside of the Urban Service Area boundary. A B-6P zone already exists across Man O' War Boulevard from the subject site.
2. The proposed development, as depicted, may create a neighborhood business opportunity, but many of the allowed land uses and the building height allowances in a B-3 zone - even considering the restriction offered by the petitioner - would be out of character with the surrounding area and could have a negative impact on the adjoining land uses.
3. The application proposes conditional zoning restrictions that specifically prohibit entertainment type land uses, which is contrary to their justification statement, and does not support the concept of placemaking set out in the 2013 Comprehensive Plan. Commercial developments should be offering more entertainment and social connection opportunities, yet the petitioner is proposing to prohibit those uses that would invite the surrounding community to experience the development (carnivals, special events, festivals, and concerts; commercial farm markets and market gardens; indoor amusement, such as bowling alleys, dancing establishments, skating rinks, miniature golf, billiard halls; nightclubs; and athletic facilities).
4. The 2018 Goals and Objectives state that "pedestrian-first design" should be utilized to accommodate the needs of bicycle, transit and other vehicles; and that redevelopment of underutilized land should be maximized in a manner that enhances the existing urban form and/or historic features. The petitioner's corollary development plan, which would be allowed within a B-3 zone, does not meet these recommendations of the Comprehensive Plan.
5. There have not been any unanticipated changes of an economic, physical, or social nature within the area that have substantially altered the basic character of the area since the Comprehensive Plan was adopted in 2013 that would support the requested zone change to a B-3 zone.

TLW/AT/JHD/dw

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