

1. **KURT R. VOLK EXEMPT FAMILY SHARE TRUST ZONING MAP AMENDMENT AND VOLK ESTATES DEVELOPMENT PLAN**

- a. **PLN-MAR-24-00007: KURT R. VOLK EXEMPT FAMILY SHARE TRUST** – a petition for a zone map amendment from an Agricultural Rural (A-R) zone to Agricultural Buffer (A-B) zone, for 144.84 net (147.14 gross) acres for property located at 8200 Tates Creek Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2045 Comprehensive Plan, Imagine Lexington, seeks 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. 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 is seeking to rezone the subject property to the Agricultural Buffer (A-B) zone to allow for the subdivision of the lot into 13 tracts, ranging from 10.1 acres to 19.5 acres.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Approval, for the following reasons:

1. The requested Agricultural Buffer (A-B) zone is in agreement with the 2045 Comprehensive Plan for the following reasons:
 - a. The proposed project will uphold the Urban Services Area concept (Theme E, Goal #1), by ensuring that all types of development are environmentally, economically and socially sustainable to accommodate the future growth needs of all residents while safeguarding rural land (Theme E, Goal #1.b).
 - b. The request will create a buffer zone to help transition from Fayette County's core agricultural land from potentially incompatible land uses in Jessamine County (Theme E, Goal #2.a).
2. The requested Agricultural Buffer (A-B) zone meets is in agreement with the 2017 Rural Land Management Plan, an adopted element of the 2045 Comprehensive Plan, for the following reasons:
 - a. The vast majority of the property is designated as Buffer Area future land use by the Rural Land Management Plan's Future Land Use Element. The petitioner proposes Agricultural Buffer (A-B) zoning for the property, which is the zoning category intended to establish the recommended buffer.
 - b. While a portion of the site is recommended as a Core Agricultural Land, the size, topography, and farming suitability of this portion of the site is out of character with the recommended land use. In addition, the portion of the subject property that has been recommended for Core Agricultural Land is less than 40 acres in size, which does not meet the minimum lot size for the A-R zone.
 - c. The requested Agricultural Buffer (A-B) zone will create consistency in lot pattern and size with existing development along Spears Road.
 - d. The proposed rezoning fulfills the Rural Land Management Plan's goal of providing a compatible transition between the potentially more intense land uses in Jessamine County and the core agricultural uses in Fayette County
3. This recommendation is made subject to approval and certification of **PLN-MJSUB-24-00005: VOLK ESTATES** 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. **PLN-MJSUB-24-00005: VOLK ESTATES** (8/3/24)* – located at 8200 TATES CREEK ROAD, LEXINGTON, KY.

Council District: 12
Project Contact: EA Partners

Note: The purpose of this plan is to depict proposed subdivision of 147 acres into 13 lots, in support of the requested zone change from an Agricultural Rural (A-R) zone to an Agricultural Buffer (A-B) zone.

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

1. Provided the Urban County Council approves the zone change to A-B; otherwise, any Commission action of approval is null and void.

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

2. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Department of Environmental Quality's approval of environmentally sensitive areas.
8. Denote the need for Kentucky Transportation Cabinet's approval of driveways to Tates Creek Road and Spears Road in the general notes.
9. Addition of street cross-section and location on plan face.
10. Addition of tree protection plan (30% of existing is required).
11. Addition of proposed and existing easements.
12. Addition of floodplain information with 25' building line setback and vegetative buffer per Article 19 of the Zoning Ordinance.
13. Discuss location of stone fences and denote protection in the right-of-way.
14. Discuss proposed access to lots per Article 6-4(i)(1) Site Access of the Land Subdivision Regulations.
15. Discuss Placebuilder criteria.

Staff Presentation – Mr. Daniel Crum presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and the general area. He stated that the applicant was seeking a zone map amendment from an Agricultural Rural (A-R) zone to Agricultural Buffer (A-B) zone, for 144.84 net (147.14 gross) acres for property located at 8200 Tates Creek Road. Mr. Crum indicated that the applicant is seeking to subdivide the parcel into 13 lots and noted the location's proximity to the Jessamine County line. Additionally, Mr. Crum noted that the impetus behind the A-B zone was to find areas that could potentially be more intense and serve as a buffer for agricultural land.

Mr. Crum showcased the street view on Tates Creek Road, and noted the vegetation on the property and stated that the access would be of particular importance and would need discussion. Mr. Crum highlighted the subdivision plan and repeated that the applicant wanted to subdivide into 13 lots, with most being 10 acres and the largest being about 20 acres.

Mr. Crum mentioned the importance of the Rural Land Management Plan and stated it was the guiding document when it comes to preservation of agricultural land. Mr. Crum noted that the current Rural Land Management Plan land use recommendation map recommended for this land to be agricultural buffer, with the exception of a small portion of the largest parcel. Mr. Crum indicated that since the Rural Land Management Plan called for the vast majority of this property to be agricultural buffer land use, Staff was comfortable with the corresponding A-B zone, but once again emphasized a discussion about access.

Mr. Crum concluded stating that Staff was recommending approval of this application, and could answer any questions from the Planning Commission.

Subdivision Plan Presentation – Ms. Cheryl Gallt oriented the Planning Commission to the location and characteristics of the subject property. Ms. Gallt stated that there is a condition to note the location of fences on the property, and Ms. Gallt indicated that the applicant had completed that. Additionally, Ms. Gallt stated that there were the typical Staff sign-offs, but reiterated Mr. Crum's point about making sure the applicant shows how they are going to deal with access to the site. Ms. Gallt indicated that the applicant had agreed to that condition at the time of the final record plat.

Ms. Gallt concluded stating that Staff was recommending approval of this application, and could answer any questions from the Planning Commission had.

Commission Questions – Mr. Mike Owens asked about the possibility of an access easement on this property and Ms. Gallt stated that the applicant, Traffic Engineering, and the Kentucky Department of Transportation will discuss that at the time of the final subdivision plan.

Ms. Worth asked what type of zone was across the street from Spears Road, and Ms. Gallt indicated that it was located in the A-R zone.

Mr. Pohl stated that it looked like one of the roads looked to be in the bottom of a storm drainage area, and Ms. Wade stated that it was a creek not a road. Ms. Gallt repeated that there are currently no access points on the plan, but there will be at the time of the final plan.

Rural Land Management Plan Presentation – Gloria Martin, chair of the Rural Land Management Board, stated that she was here to talk about the history of the A-B zone, and not provide a recommendation for this zone change, at the request of the Planning Commission. Ms. Martin stated that in the 1990's the creation of the A-B zone was a multi-year process where a committee met every week for two years to discuss these new zones.

Ms. Martin thanked the Planning Commission for the opportunity to present, and stated that she thought it was in the best interest for the Planning Commission and Rural Land Management Board to work together more often.

Ms. Margaret Graves, of the Rural Land Management Board, gave a brief history of the A-B zone stating that since 1958, Lexington has known the importance of maintaining and preserving agricultural land. Ms. Graves stated that in 1986 and 1988 the Planning Commission saw the need to buffer agriculturally sensitive areas. In 1990 the Greenspace Commission was created and in 1994 that commission adopted the Greenspace Plan, identified those agriculturally sensitive areas, and played an important role in the 1999 Rural Land Management Plan.

Ms. Graves stated that in 1998 a moratorium, enacted by the Council, on the subdivision of land in the A-R zone due to the increasing number of 10 acre tracts that were being created. Ms. Graves pointed out that the committee Ms. Martin mentioned, was instrumental in getting that moratorium and stated that their conclusion was that the 10 acre tracts were not a good use of agricultural land. In 1999, the Council adopted a text amendment that increased the allowable lot size from 10 acres to 40 acres in the A-R zone, as well as the creation of the A-B zone.

Ms. Graves stated that the intent of the A-B zone was to create a land use zone that would have limited applicability in very specific areas and serve as a buffer between urban and agricultural areas. Ms. Graves continued, stating that at that time there was a land use map that only called for just over 2,000 acres of land they had designated as appropriate for the A-B zone. Ms. Graves stated that in 2017, the Rural Land Management Plan included a map that showed areas that would be appropriate for the A-B zone. Additionally, Ms. Graves stated that the 2023 Comprehensive Plan reaffirmed the Planning Commission's and Rural Land Management Board's commitment to the preservation of agricultural land.

Ms. Graves concluded saying that the intent of the A-B zone from the beginning was to create a zone that was limited in scope and the total number of acres, and to create a transitional buffer zone between rural and urban uses. Ms. Graves concluded by stating they she can show the Planning Commission the maps she was talking about if they wished.

Ms. Martin showcased the maps discussed and stated that there had only been three A-B zone changes that have ever been approved.

Applicant Presentation – Nick Nicholson, attorney for the applicant, stated that he was in complete agreement with the Staff's recommendations and the conditions for approval, but wanted to highlight a few points. First, Mr. Nicholson displayed an aerial photo of the property and noted that this was a very unusually shaped plat, as well as the large amount of vegetation. Mr. Nicholson stated that there was no agricultural use taking place today and the only potential use would be for timber, which the applicant is against using. Mr. Nicholson indicated that this zone change was for estate planning and that any kind of development is not imminent. He stated that the applicant has a significant farming operation on the Jessamine County side. The applicant is worried about a significant "death tax bill" and Mr. Nicholson noted that this application is to potentially offset that and offer some flexibility so the applicant could sell these lots when that time comes.

Mr. Nicholson showcased a map that showed that the subject property is on the 2017 Land Use map provided by the Rural Land Management Board, and shows that this area was designated as buffer area and that this was the only portion of Spears Road that was recommended for the Agricultural Buffer use and A-B zone. Mr. Nicholson further explained that the justification for having 10 acre lots, and one lot that was around 20, was because they are following the recommendations on the RLMB map in order to make the A-B zoned parcels smaller, and the ones recommended for the A-R zone, larger.

Mr. Nicholson noted the discussion on access into the property, and used language from a previously approved plan, that says that this is a preliminary plan, and the access should be discussed at the time of the final subdivision plan. Mr. Nicholson then called on the applicant, Ms. Horn to come discuss her thought process on this application.

Ms. Donna Horn, owner of the property, stated she agreed with Ms. Martin and the goals of the RLMB, and stated that she was a farmer and a therapist and that she had 294 acres. Ms. Horn gave a brief history of her ownership of the property, stating that they had plans to move their cattle farm on this property, but an illness to her husband changed their plans. Ms. Horn stated that she was the kind of rural land owner that the Planning Commission wanted and her intention was keeping the farm together, with an emphasis on how the farm can sustain itself when she is gone. Ms. Horn concluded by stating she could answer any questions that the Planning Commission had and invited the members to come out and walk the farm to see how beautiful the land is.

Commission Questions – Mr. Wilson asked what public engagement occurred for this application and Mr. Nicholson stated there was a neighborhood meeting that included a realtor that was interested in the property, and their attorney.

Public Comment – Frank Penn, 4741 Mt. Horeb Road, stated that he thought this application was filed to circumvent the 40 acre rule, and that as one of the men in the room when the A-B zone was created, he thought the A-B zone was made to buffer what was done made in Jessamine County.

Brittany Roethemeier, Director of Fayette Alliance, stated that the RLMB should be asked if this application meets their own standards for the intent of the A-B zone.

Applicant Rebuttal – Mr. Nicholson stated that the RLMB Land Use Map from 2017 specifies nine parcels for potential subdivision, two of which have already occurred next door to this application. Mr. Nicholson addressed Mr. Penn's concerns stating that the RLMB helped create the A-B zone, and the 40 acre rule, and now the RLMB map called for this land to be A-B land. How can this circumvent the 40 acre rule if the same entity that made it, says that the subject property is appropriate for the A-B zone?

Staff Rebuttal – Mr. Crum reiterated that the current Rural Land Management Plan Land Use Map recommends for this land to be agricultural buffer, with the exception of a portion of the 20 acre parcel, which Staff deemed was appropriate.

Commission Comments and Questions – Ms. Worth asked if this application would have an impact on adjoining A-R zoned properties next to the application, and Mr. Crum stated that those properties are residential and do not have large farming operations. Mr. Crum finished by stating that Staff did not think this was in conflict with the adjoining properties.

Mr. Pohl asked if there had been discussions with Ms. Martin and Ms. Graves about Mr. Penn's point about the properties on Spears Road not operating as buffers. Mr. Crum indicated that he was unsure of what Mr. Pohl was talking about, but repeated that Staff felt comfortable with their approval because this application would fill in some needed buffer. Mr. Crum also highlighted how limited the A-B zone is, and would not be a lot besides family residences.

Mr. Pohl asked if Mr. Crum understood why there were 10 acre lots established behind 10 acre lots on the west side that are true buffers and those on the east side that are not, and if it makes sense to continue that precedent. Mr. Crum indicated that Ms. Martin and Ms. Graves, might have better insight than he would on the history, but many of the existing 10 acre tracts predated the RLMP. Mr. Crum also provided some information on the larger lotting patterns along this portion of Tates Creek Road.

Mr. Owens asked if the RLMB was asked for a recommendation on this application and Mr. Crum indicated that Staff had not, per usual of Staff's analysis of the RLMP.

Ms. Wade stated that the RLMB could comment on this application, but it is not a Staff practice to ask for their insight on a zone change.

Mr. Michler referred to Mr. Crum's slide about Goals and Objectives of the Comprehensive Plan, as well as Rural Development, he stated that continuing to divide 10 acre lots is not intuitive and that the RLMB map