

ORDINANCE NO. 007 - 2022

AN ORDINANCE CHANGING THE ZONE FROM AN AGRICULTURAL RURAL (A-R) ZONE TO AN AGRICULTURAL BUFFER (A-B) ZONE, FOR 134.72 NET (135.23 GROSS) ACRES, FOR PROPERTY LOCATED AT 7086 TATES CREEK ROAD. (TALON DEVELOPMENT, INC.; COUNCIL DISTRICT 12).

---

WHEREAS, at a Public Hearing held on December 16, 2021, a petition for a zoning ordinance map amendment for properties located at 7086 Tates Creek Road from an Agricultural Rural (A-R) zone to an Agricultural Buffer (A-B) zone, for 134.72 net (135.23 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 11-0; 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 7086 Tates Creek Road from an Agricultural Rural (A-R) zone, to an Agricultural Buffer (A-B) zone, for 134.72 net (135.23 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: February 10, 2022



\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: February 17, 2022-1t

079-22:TWJ:X:\Cases\PLANNING\22-LE0003\LEG\00747603.DOCX

Rec'd by \_\_\_\_\_

Date: \_\_\_\_\_

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

IN RE: **PLN-MAR-21-00019: TALON DEVELOPMENT INC.** - a petition for a zone map amendment from an Agricultural Rural (A-R) zone to an Agricultural Buffer (A-B) zone, for 134.72 net (135.23 gross) acres, for property at 7086 Tates Creek Road (a portion of). (Council District 12)

Having considered the above matter on **December 16, 2021**, at a Public Hearing, and having voted **11-0** 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 Agricultural Buffer (A-B) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives and the 2017 Rural Land Management 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 plans recommend a Buffer Area land use for the subject property. The petitioner proposes Agricultural Buffer (A-B) zoning for the property, which is the zoning category intended to establish the recommended buffer.
  - c. A total of thirteen lots, all 10-acres in size or larger, are proposed for the subject property, which is consistent with the parcel size recommended in the 2017 Rural Land Management Plan for buffer areas, and complies with the minimum lot size established in the Zoning Ordinance for the A-B zone.
2. This recommendation is made subject to approval and certification of **PLN-MJDP-21-00066: Talon 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.

ATTEST: This 13<sup>th</sup> day of January, 2022.

  
Secretary, Jim Duncan

**LARRY FORESTER**  
CHAIR

Note: The corollary development plan, **PLN-MJDP-21-00066: TALON ESTATES** was approved by the Planning Commission on December 16, 2021 and certified on December 23, 2021.

K.R.S. 100.211(7) requires that the Council take action on this request by March 16, 2022.

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

**OBJECTORS**

- None

**OBJECTIONS**

- None

VOTES WERE AS FOLLOWS:

AYES: (11) Barksdale, Bell, Davis, de Movellan, Forester, Meyer, Michler, Nicol, Penn,  
Pohl, and Worth

NAYS: (0)

ABSENT: (0)

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-21-00019** carried.

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

Record ID: PLN-MAR-21-00019

Filing Received: 11/01/2021

Pre-Application Date: 09/22/2021

Filing Fee: \$550.00

### MAP AMENDMENT REQUEST (MAR) APPLICATION

**1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)**

<b>Applicant:</b> TALON DEVELOPMENT INC., 7086 TATES CREEK ROAD, LEXINGTON, KY 40515
<b>Owner(s):</b> MOONDANCE LLC, 7086 TATES CREEK ROAD, LEXINGTON, KY 40515
<b>Attorney:</b>

**2. ADDRESS OF APPLICANT'S PROPERTY**

7086 TATES CREEK ROAD, LEXINGTON, KY 40515
--

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

Zoning	Existing Use	Zoning	Requested Use	Acreage	
				Net	Gross
A-R	AGRICULTURAL	A-B	AGRICULTURAL / RESIDENTIAL	134.72	135.23

**4. EXISTING CONDITIONS**

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

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

Roads:	To Be Constructed
Storm Sewers:	Not Applicable
Sanity Sewers:	Not Applicable
Refuse Collection:	Private
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



## Zoning Justification

This zone map amendment request for the property located at 7086 Tates Creek Rd is in compliance with the 2018 Comprehensive Plan and the 2017 Rural Land Use Management Plan. This is an application to rezone 135.24 acres, gross and 134.72 acres from Agricultural Rural (A-R) to Agricultural Buffer (A-B). The proposal seeks to create 13 A-B zoned lots consisting of ten acres or more. The subject property is a smaller portion of the Talon Winery which has served Lexington and central Kentucky for many years.

This application complies with the following Goals and Objectives of the 2018 Comprehensive Plan

### THEME A GROWING SUCCESSFUL NEIGHBORHOODS

#### Goal 1: Expand Housing Choices

a. Pursue incentives and regulatory approaches that encourage creativity and sustainability in housing development.

#### Goal 3: Provide Well Designed Neighborhoods and Communities

a. Enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation and public commitment for mixed use and mixed type housing throughout Lexington and Fayette County.

### THEME E URBAN AND RURAL BALANCE

Goal 1: Uphold the Urban Services Area Concept

b. Ensure all types of development are environmentally, economically and socially sustainable to accommodate the future growth needs of all residents while safeguarding rural land.

This application is in compliance with the following Goals and Objectives of the 2017 Rural Land Management Plan:

A. Empower the agricultural industry.

1. Maintain a viable and strong agricultural economy.
2. Protect land for agriculture uses and promote sustainable agricultural practices.

B. Protect the integrity of the rural landscape.

1. Rural Settlements, crossroads
2. Scenic corridors, Natural Areas

The subject property adjoins an existing 10 acre residential subdivision to the south located in Fayette County. The 1999 and 2017 Rural Land Management Plans specifically set aside "buffer areas" which provide buffers between higher density urban uses in Lexington and more intense development in adjoining counties. In this case, Jessamine County is located across Tates Creek Road from the subject property. The City of Nicholasville has been annexing large sections of Jessamine County and allowing for more intense commercial and residential development in the northern area of the county and in relatively close proximity to the subject property. Jessamine County allows for one acre lot residential subdivisions in the northern Jessamine county across from the subject

property. The subject property is within an area along Tates Creek Road specifically earmarked for 10 acre parcels to be zoned A-B. Page 56 of the Rural Land Management Plan states that the land uses in buffer areas should be predominantly residential and/or smallholder farm uses. There is no question that this application meets the specific land use recommendations first established in the 1999 Rural Land Management Plan and subsequently reaffirmed by the Planning Commission in the 2017 Rural Land Management Plan.

UPDATED 11.12.2021

**TALON DEVELOPMENT INC.**  
(PLN-MAR-21-00019)

7086 TATES CREEK ROAD (A PORTION OF)

Rezoning a portion of the property to allow for the subdivision of the property.

**Applicant**

TALON DEVELOPMENT INC.  
7086 Tates Creek Road  
Lexington, KY 40515  
rkahly@eapartners.com



**Owner**

MOONDANCE LLC  
7086 Tates Creek Road  
Lexington, KY 40515



**Application Details**

**Acreage:**

134.72 net (135.23 gross) acres

**Current Zoning:**

Agricultural Rural (A-R) Zone

**Proposed Zoning:**

Agricultural Buffer (A-B) Zone

**Rural Development:**

Portion of property recommended for Agricultural Buffer (A-B) zoning.

*For more information about the Rural Developments see Imagine Lexington page 269. For more information about the recommended location of the A-B zone see the Rural Land Management Plan pages 55-58.*

**Description:**

The applicant is seeking to rezone a portion of the property to allow for the creation of thirteen (13) ten-acre lots and four (4) forty-acre lots.



**Status**

- Public Engagement
- Pre-Application Meeting
- Application Review
- Planning Staff Review
- Technical Review Committee
- Zoning/Subdivision Committee Meetings
- Planning Commission Hearing
- Urban County Council Meeting

**Public Engagement**

- The applicant has not indicated what public engagement has been conducted prior to the submission of their application.

DISCLAIMER: Plans are subject to change. Visit the Accela Citizen Portal ([lexingtonky.gov/plans](http://lexingtonky.gov/plans)) or contact Planning for the latest information.



# Latest Plan



7086 Tates Creek Road(a portion of)  
Moondance, LLC Property  
Zone Change from A-R to A-B  
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED EAST OF AND ADJACENT TO TATES CREEK ROAD LOCATED APPROXIMATELY 0.7 MILES NORTH OF THE INTERSECTION OF TATES CREEK ROAD AND BEL-MAR LAND MILL ROAD IN SOUTHWEST LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

**BEGINNING AT A POINT** in the centerline of Tates Creek Road, said point also lying extended eastern property line of Juddmonte Farms Inc.; thence with said eastern line for the following three (3) calls: North 34 degree 51 minutes 00 seconds East, a distance of 1409.29 feet to a point; Thence North 14 degrees 04 minutes 00 seconds East, a distance of 976.00 feet to a point; Thence North 18 minutes 19 minutes 00 seconds east, a distance of 29.67 feet to a point; Thence leaving said eastern line South 66 degrees 20 minutes 27 seconds East, a distance of 773.32 feet to a point; Thence South 11 degrees 42 minutes 51 seconds East, a distance of 536.90 feet to a point; Thence South 48 degrees 19 minutes 32 seconds East, a distance of 1145.79 feet to a point; Thence South 18 degrees 56 minutes 02 seconds West, a distance of 1133.58 feet to a point in the northern line of Bel-Mar Estates, Unit 1 - Lots 1 & 13 / Unit 2 - Lots 2 & 12 as shown on Plat Cabinet J, Slide 972 of record in the Fayette County Clerk's Office; Thence with said northern line for the following two (2) calls: North 55 Degrees 28 Minutes 00 Seconds West, a distance of 154.79 feet to a point; thence South 30 degrees 30 minutes 00 Seconds West, a distance of 1270.00 feet to a point in the northern line of Robert A. & C.K. Averitt; Thence with said northern line for the following two (2) calls: North 47 Degrees 50 Minutes 00 Seconds West, a distance of 696.00 feet to a point; Thence South 65 degrees 30 minutes 00 seconds West, a distance of 984.25 feet to a point in the centerline of Tates Creek Road; Thence with said centerline for the following three (3) calls: North 14 Degrees 07 Minutes 00 Seconds West, a distance of 99.85 feet to a point; Thence North 05 Degrees 45 Minutes 00 Seconds West, a distance of 971.10 feet to a point; Thence North 07 degrees 00 minutes 00 seconds West, a distance of 426.30 feet to the **POINT OF BEGINNING** and containing 135.23 acres gross and 134.72 acres net.

See file held by Council Clerk's Office for Map  
(unable to scan due to size)

# STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-21-00019: TALON DEVELOPMENT INC.

## DESCRIPTION OF ZONE CHANGE

Zone Change: From a Agricultural Rural (A-R) zone  
To a Agricultural Buffer (A-B) zone  
Acreage: 134.72 net (135.23 gross) acres  
Location: 7086 Tates Creek Road (a portion of)



## EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Properties	A-R	Agricultural / Winery
To North	A-R	Agricultural
To East	A-R	Agricultural
To South	A-R	Agricultural
To West	A-R	Agricultural

## URBAN SERVICE REPORT

**Roads** - Tates Creek Road (KY 1974) is a two-lane rural highway at this location in the Rural Service Area. The petitioner proposes the construction of a public roadway to access the majority of the proposed properties, with two tracks, located along the northern portion of the site accessed via an access easement.

**Curb/Gutter/Sidewalks** - Tates Creek Road has been constructed without gutter and curbing, and does not have emergency shoulders on this portion of the roadway. Sidewalks are not present along this rural roadway. The applicant is proposing pedestrian facilities around the outer limits of the A-B zone.

**Utilities** - All utilities, including natural gas, electric, water, phone, cable television, and internet are available in the area, and are available to serve future development.

**Storm Sewers** - A storm sewer system is not anticipated to be necessary for the proposed low intensity land uses. The property is located within the Kentucky River watershed. A portion of the property, which is not the subject of the zone change, is encumbered with an identified special flood hazard area, or a 100 year floodplain. There are three ponds located across the site within the area of the proposed rezoning.

**Sanitary Sewers** - It is anticipated that each of the seventeen proposed lots will be served by their own septic systems, subject to permitting by the Department of Health.

**Refuse** - The Urban County Government does not serve the rural area. Refuse collection for the development will need to be preformed by a private company.

**Police** - The nearest police station is the East Sector Roll Call Center, located approximately 8 miles to the north in the Gainesway neighborhood on Centre Parkway.

**Fire/Ambulance** - There are two fire stations that are within proximity to the subject property. Fire Station #22 is the nearest station to this site and is located approximately five (5) miles to the northwest of the subject property along Clearwater Way. Fire station #18 is also approximately five (5) miles to the northeast of the subject property at the intersection of S. Cleveland Road and Old Richmond Road.

**Transit** - There is no LexTran service available within close proximity of the subject property.

**Parks** - There are no public parks within proximity of the subject property. The nearest public park is Raven Run, located about three (3) miles to the southeast of the subject property.

### SUMMARY OF REQUEST

The applicant is seeking to rezone a portion of the subject property from an Agricultural Rural (A-R) zone to the Agricultural Buffer (A-B) zone to allow for the creation of thirteen (13) ten-acre lots and four (4) forty-acre lots.

### RURAL DEVELOPMENTS



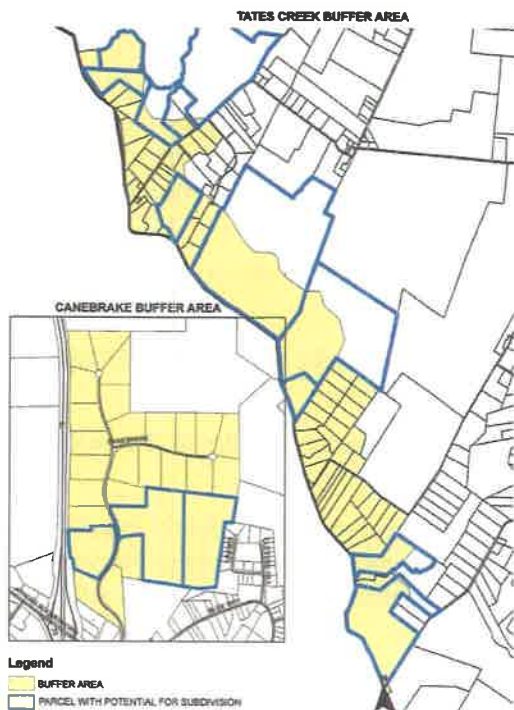
Development within the Rural Service Area (RSA) should consider the unique assets and opportunities offered by Lexington's agricultural landscape. For this reason, the 2017 Rural Land Management Plan (RLMP), in tandem with applicable policies from Imagine Lexington, should act as the primary guide for all rural development endeavors and should be directly addressed in development proposals within the RSA.

Due to the distinct difference between urban place-types and rural area considerations, the RLMP is better suited to guide the limited development within the RSA than the criteria set out in the Placebuilder. Additionally, the numerous policies, goals, and objectives within Imagine Lexington focusing on rural development link directly to the goals and objectives laid out by the RLMP. These provide additional support for defining the intended nature of rural development and its impacts on the agricultural community.

### PROPOSED ZONING



This zone is established to preserve the rural character of the agricultural service area by establishing agricultural land that can serve as buffer areas between urban uses and agricultural land, and between land outside Fayette County and agricultural uses. It is the intent of this zone to provide separation between conflicting uses by requiring appropriate landscaping, fencing, and compatible uses. The Land Use Element of the Comprehensive Plan shall be used to determine the appropriate location for the Agricultural Buffer (A-B) zone.



### BUFFER AREAS

This land use category encompasses the areas that can serve as buffers between conflicting urban uses and/or between higher intensive uses in adjoining counties and agricultural land. All but one of the buffer areas are located on or near the edge of the Urban Service Boundary. The other buffer area is along Tates Creek Road, and it is intended to transition from possible incompatible land uses in Jessamine County. Buffer Areas are predominated by lots that are ten acres or less in size. The total land area for this category is 2,525 acres.

Since the adoption of the first Rural Service Area Land Management Plan 1999, the Agriculture-Buffer (A-B) zone was created for this land use category. The intent is to separate the conflicting uses by requiring appropriate landscaping, fencing and compatible uses. The principal permitted uses for the zone are agricultural and single family dwellings. A minimum lot size of 10 acres is required.

### APPLICANT & COMMUNITY ENGAGEMENT



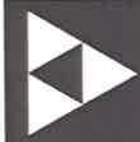
The applicant has not indicated that there has been any neighborhood engagement or outreach regarding the proposed zone change.

## PROPERTY & ZONING HISTORY



The subject property has operated as an active farm since its establishment in the 1700s. The original farm house was constructed in 1790 and experienced extensive modifications in 1875. The subject property has been zoned Agricultural (A-1), and subsequently Agricultural Rural (A-R) since the establishment of zoning in Fayette County. The farm was primarily operated as a cattle and tobacco farm until its purchase in 1998, when the current landowner purchased the property. In 1999, the owner established a winery, Talon Winery, on the property. The winery has been in operation since that time, adding different facilities to support the agricultural use.

## COMPREHENSIVE PLAN COMPLIANCE



The 2018 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.

In 1999, the first Rural Service Area Land Management Plan was adopted as an element of the 1996 Comprehensive Plan. The document was the first extensive effort dedicated to the planning and management of land uses in the Rural Service Area and recommended minimum lot sizes, establishment of rural land use categories, utilization of greenways and Focus Areas for recreation, preservation of rural settlements and scenic roads, infill and redevelopment, considerations for potential adjustments to the Urban Service Boundary, buffering of the urban edge, and the recommendations for the Purchase of Development Rights Program. In 2017, the Rural Land Management Plan was adopted, updating the recommendations made within the 1999 Plan. The 2017 Rural Land Management Plan is an adopted element of the 2018 Comprehensive Plan.

The applicant opines that the proposed rezoning for the subject property is in agreement with the 2018 Comprehensive Plan and meets the recommendations of the 2017 Rural Land Management Plan.

### GOALS & OBJECTIVES

The applicant opines that they are in agreement with the adopted Goals, Objectives, and Policies of the 2018 Comprehensive Plan. The applicant indicates that the proposed project will uphold the Urban Service 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). The applicant states that the smaller lots provide a buffer to the larger scale agricultural area, while also providing greater housing options in Lexington.

Staff Agrees that the proposed zoning will act as a buffer and that the proposed rezoning will safeguard the rural land.

### RURAL LAND MANAGEMENT PLAN

The applicant also opines that the subject rezoning is in agreement with the 2017 Rural Land Management Plan. They indicate that the subject property adjoins an existing 10 acre residential subdivision to the south, which will match the proposed lotting pattern. The 1999 and 2017 Rural Land Management Plans specifically delineated areas to act as buffers between potential higher density residential uses and agricultural uses. In this case, Jessamine County is located west of the subject property across Tates Creek Road. Within this portion of Jessamine County, one acre lots are allowable, which provides a variable context to the built environment. The Rural Land Management Plan promotes the rezoning of properties located along Tates Creek Road to maintain a transition from those differing intensities of residential land uses to the proposed agricultural land uses that are promoted in a majority of the Rural Service Area.

Staff agrees that the requested A-B zoning is the zone that is intended to implement the buffer recommendation, established by the Rural Land Management Plan and carried forward by the 2018 Comprehensive Plan.

**STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:**



1. The requested Agricultural Buffer (A-B) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives and the 2017 Rural Land Management 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. These plans recommend a Buffer Area land use for the subject property. The petitioner proposes Agricultural Buffer (A-B) zoning for the property, which is the zoning category intended to establish the recommended buffer.
  - c. A total of thirteen lots, all 10-acres in size or larger, are proposed for the subject property, which is consistent with the parcel size recommended in the 2017 Rural Land Management Plan for buffer areas, and complies with the minimum lot size established in the Zoning Ordinance for the A-B zone.
2. This recommendation is made subject to approval and certification of PLN-MJDP-21-00066: Talon 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.

1. **TALON DEVELOPMENT INC. ZONING MAP AMENDMENT & TALON ESTATES ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-21-00019: TALON DEVELOPMENT INC. (01/30/22)\*- a petition for a zone map amendment from an Agricultural Rural (A-R) zone to an Agricultural Buffer (A-B) zone, for 134.72 net (135.23 gross) acres, for property at 7086 Tates Creek Road (a portion of).

**COMPREHENSIVE PLAN AND PROPOSED USE**

The 2018 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 a portion of the subject property from an Agricultural Rural (A-R) zone to the Agricultural Buffer (A-B) zone to allow for the creation of thirteen (13) ten-acre lots and four (4) forty-acre lots.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval, for the following reasons:

1. The requested Agricultural Buffer (A-B) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives and the 2017 Rural Land Management 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. These plans recommend a Buffer Area land use for the subject property. The petitioner proposes Agricultural Buffer (A-B) zoning for the property, which is the zoning category intended to establish the recommended buffer.
    - c. A total of thirteen lots, all 10-acres in size or larger, are proposed for the subject property, which is consistent with the parcel size recommended in the 2017 Rural Land Management Plan for buffer areas, and complies with the minimum lot size established in the Zoning Ordinance for the A-B zone.
  2. This recommendation is made subject to approval and certification of PLN-MJDP-21-00066: Talon 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-MJDP-21-00066: TALON ESTATES (01/30/22)\* - located at 7086 TATES CREEK ROAD, LEXINGTON, KY  
Project Contact: EA Partners, PLC

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

1. Provided the Urban County Council rezones the property A-B; 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 and tree protection plan.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. United States Postal Service Office's approval of kiosk locations or easement.
7. Denote building line on Lot #13.
8. Provided the Planning Commission approves the requested waiver for Talon Lane.
9. Provided the Planning Commission makes a finding regarding sole access via an access easement for Lots #13 and #17.

**Staff Zoning Presentation** – Mr. Baillie said that this will be presented as an abbreviated hearing, since no opposition to the application is present. He then presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and aerial photographs of the general area. He said the applicant is seeking to develop 13 ten-acre lots and 4 forty-acre lots. He said that the plan for this property and the zone change are different because they are located outside of the Urban Service Area (USA) boundary, therefore the Place-Type and Development Type criteria are not required. However, this portion of the USA will need to be in agreement with the Rural Land Management Plan, which is a map-based plan and is an adopted element of the 2018 Comprehensive Plan. He said that this property is currently an active small farm winery. He displayed the 1999 Rural Land Management Plan (RLMP) land use map and said that this area specifically along Tates Creek Road was identified as an area for potential buffering, due to the fact of being located along the Fayette County / Jessamine County border. He said that Jessamine County allows denser and more intense land development on their side of the roadway. The Rural Land Management Plan recommends the ability to allow for slightly more dense development to occur along Tates Creek Road with the minimum lot size of of properties to 10 acre lots to buffer core agricultural land. He

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



identified the subject property on the map and said that there was concern as to where the Agricultural Buffer land use could be developed. He said that the applicant has indicated on their letter of justification that they are meeting the location recommended by the RLMP. He added that the applicant is meeting the Comprehensive Plan by placing their area of Agricultural Buffer land use in that particular area. He said that the staff is recommending approval of this zone change because it is in agreement with the Comprehensive Plan and Rural Land Management Plan.

Development Plan Presentation – Mr. Martin presented a rendering of the development plan associated with the zone change. He displayed a color rendering and identified Tates Creek Road and the existing farm / winery road that serves the property, which the applicant is proposing to reconstruct. He then identified the proposed Agricultural Buffer (A-B) zone lots at the front of the property, and said that they meet the requirements of the Rural Land Management Plan. He said that the remaining 4 Agricultural Rural (A-R) zone lots are located in the rear of the property. He said that condition #7, is to denote the building line of Lot #13, which he identified on the plan. He said that Lot #13 is subject to a finding for an access easement on this plan. The applicant is proposing to rebuild the existing farm road as a public street, which will terminate with a cul-de-sac. He said that the applicant is also proposing a pedestrian system around the exterior of the 10-acre lots. He then identified the existing winery and the historic home. He also identified a large pond, which drains into two additional ponds on the property.

Mr. Martin then identified the proposed access easement to access lots #13 and #17, on the plan. He said that the applicant has requested a waiver for the geometrics of the public street. They are proposing to provide a 24-foot wide poured portion of the street, but only 20 feet is required. The second request on the waiver to reduce the size of the right-of-way to 50 feet, instead of 60 feet. They believe that this will better facilitate emergency vehicles, guests to the winery, and farm equipment. He added that street trees are required in a rural subdivision, and the applicant is proposing a 10-foot tree planting easement along the right-of-way. He said that streets in rural areas do not require curb and gutters, but do require ditches for stormwater drainage. He said that the applicant had also indicated a 300-foot building line at the location of the cul-de-sac, but in an agricultural zone, the frontage is measured at the right-of-way. Therefore, the applicant will have to address how they intend to meet the frontage requirements off of the cul-de-sac, which can be resolved at the time of the Final Development Plan. He added that the street does reflect the topography of the property. He said that the staff is recommending approval of the waiver for the following reasons:

Approval of the requested waiver for the reduced right-of-way to 50', additional pavement to 24', and a 10' easement for tree streets to be planted adjacent to the right-of-way, for the following reasons:

1. Strict enforcement of the Land Subdivision Regulations would constitute a hardship for the applicant due to the land topography and existing farm features.
2. Granting the waiver of the Land Subdivision Regulations will not negatively impact public health and safety in that all of the elements of the rural cross section are provided, but in a slightly different configuration. The additional pavement width is appreciate in that it addresses the higher than typical use of an agricultural street in the Rural Service Area to serve the active agricultural use of a small farm winery at the rear of the parent parcel.
3. Granting the waiver is consistent with Article 6-4(j)(2)(e) of the Land Subdivision Regulations governing subdivisions in the Agricultural Buffer (A-B) and Agricultural Rural (A-R) zones which encourages the Planning Commission to consider alternative street designs and roadway geometrics that preserve existing agricultural patterns and features.

This recommendation is made subject to the following additional requirements:

- a. It shall be noted on the Preliminary Subdivision Plan that further review of lot frontage shall be completed in the future, and approval of the requested waiver does not imply compliance with the frontage requirements established by Article 8-1 and 8-2 of the Zoning Ordinance.
- b. Maintenance responsibilities for the access easements shall be denoted on the final record plat.

Findings for appropriateness of access easements as sole access for certain lots:

1. Allowing two agricultural lots to be accessed via independent access easements, which each cross one lot, is appropriate for the proposed subdivision and consistent with Article 1-5(a) of the Land Subdivision Regulations.

Mr. Martin said that when an access easement runs through one lot to serve another lot, there is a concern regarding who will maintain the easement, and there is the additional concern regarding how to keep the owners from utilizing that access easement, and not have to place a physical barrier.

Commission Question – Mr. Penn said that during the Subdivision Committee meeting on December 2, 2021, there was discussion regarding the maintenance of the access easement. He then asked where it will be indicated who will be responsible for the maintenance of that access easement. Mr. Martin said there is a note in the Land Subdivision Regulations, which states that the owner is responsible for the maintenance of the access easement. Mr. Penn then said that this is a problem in other counties and he is seeking to prevent this from becoming a problem in this subdivision. Mr. Martin said that the applicant will make the appropriate deed restrictions.

Mr. Pohl asked why an additional access easement is needed to lot #13 when there is one that runs along the perimeter of the property. Mr. Martin said that easement is a pedestrian walkway along the perimeter of the property. Mr. Pohl then asked if lot

#13 has access to Tates Creek Road. Mr. Martin displayed the map of the property and said that lot #13 does not have access to Tates Creek Road.

Applicant Presentation – Mr. Dick Murphy, attorney, Harriet Allen, Troy Thompson, and Rory Kahly, were present representing the petitioner. Mr. Murphy said that they are in agreement with the staff's recommendation and that the zone change does agree with the Rural Land Management Plan. He said in regard to the concerns on the development plan, as Mr. Martin has mentioned, the concern with the frontage along the cul-de-sac was recently brought to their attention and they will have the opportunity to be resolved at the time of the Final Development Plan. He said that this is a combined Preliminary Development Plan and a Preliminary Subdivision Plan. In regards to Mr. Penn's question about the access easement, he said that maintenance responsibility was a problem with older lots. He said that note #11 on the development plan states "vehicular access easement serving lot #17, across lot #16, and serving lot #13, across lot #11, shall be maintained by the lots they provide access to, lots #13 and #17 respectively." He said that it also states "no other lot shall be permitted vehicular access from these easements." He added that they are also providing deed restrictions. He said he is available for any questions.

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

Zoning Action – A motion was made by Mr. Penn, seconded by Ms. Worth, and carried 11-0 to approve PLN-MAR-21-00019: TALON DEVELOPMENT INC., for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Penn, seconded by Ms. Barksdale, and carried 11-0 to approve PLN-MJDP-21-00066: TALON ESTATES, as presented by the staff.

Waiver Request Action - A motion was made by Mr. Penn, seconded by Mr. Bell, and carried 11-0 to approve the associated waiver and access easement, for the reasons provided by the staff.

Applicant Comment – Mr. Murphy asked for verification if the motion included both the waiver and the finding on the access easement. Mr. Penn said that it does include both the waiver and the finding on the access easement.