

AN ORDINANCE CHANGING THE ZONE FROM A NEIGHBORHOOD BUSINESS (B-1) ZONE TO AN AGRICULTURAL RURAL (A-R) ZONE, FOR 3.24 NET (3.76 GROSS) ACRES, FOR PROPERTY LOCATED AT 5898 OLD RICHMOND ROAD. (ERFAN M. ALAMI (AMD.); COUNCIL DISTRICT 12.)

WHEREAS, at a Public Hearing held on October 27, 2016, a petition for a zoning ordinance map amendment for property located at 5898 Old Richmond Road from a Neighborhood Business (B-1) zone to an Agricultural Rural (A-R) zone, for 3.24 net (3.76 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 10-0; 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 5898 Old Richmond Road from a Neighborhood Business (B-1) zone to an Agricultural Rural (A-R) zone, for 3.24 net (3.76 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: December 6, 2016



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

ERFAN M. ALAMI PROPERTY
5898 Old Richmond Road
Lexington, Fayette County, Kentucky
Zone Change from B-1 to A-R

A TRACT OR PARCEL OF LAND LOCATED ADJACENT TO AND WEST OF OLD RICHMOND ROAD AT THE INTERSECTION WITH JACKSCREEK ROAD IN SOUTHEASTERN LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT in the intersection of the centerline of Old Richmond Road and the extended common line of 5846 and 5898 old Richmond Road (known as lots 1 and 2) located on the Bogie Estates of record in Plat cabinet N, Slide 617 in the Office of the County Clerk of Fayette County, Kentucky; thence with said centerline for the following five calls: South 25 degrees 41 minute 53 seconds East, a distance of 58.18 feet to a point; thence South 29 degrees 13 minute 04 seconds E, a distance of 98.71 feet to a point; thence South 33 degrees 02 minutes 20 seconds East, a distance of 90.44 feet to a point; thence South 37 degrees 33 minutes 54 seconds East, a distance of 99.18 feet to a point; thence South 42 degrees 13 minutes 03 seconds East, a distance of 97.41 feet to a point in the intersection of Old Richmond Road and Jacks Creek Road; thence with the centerline of Jacks Creek Road South 23 degrees 17 minutes 05 seconds West, a distance of 346.30 feet to a point; thence leaving said centerline North 38 degrees 00 minutes 24 seconds West, a distance of 630.56 feet to a point; thence North 56 degrees 00 minutes 59 seconds East, a distance of 333.48 feet to the **POINT OF BEGINNING** and containing 3.76 acres gross and 3.24 acres net.

Rec'd by Bm
Date: 11-11-16

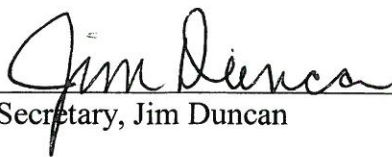
RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: MAR-2015-25: ERFAN M. ALAMAI (AMD) – petition for a zone map amendment from a Neighborhood Business (B-1) zone to an Agricultural Rural (A-R) zone, for 3.24 net (3.76 gross) acres, for property located at 5898 Old Richmond Road. (Council District 12)

Having considered the above matter on **October 27, 2016**, at a Public Hearing, and having voted **10-0** 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 Rural (A-R) zone is in agreement with the 2013 Comprehensive Plan and the 1999 Rural Land Management Plan, for the following reasons:
 - a. The 2013 Comprehensive Plan Goals and Objectives recommend supporting the agricultural economy and the character of the Rural Service Area. Since the subject property has been utilized as a single-family residence since 1935, retaining the residence in a conforming manner will better preserve the rural character of the immediate area.
 - b. The Rural Land Management Plan recommends Core Agricultural and Rural Land (CARL) future land use for the subject property. The property is located within the Rural Service Area; is not served by typical urban services, such as sanitary sewers, storm sewers, solid waste collection or curb/gutter/sidewalks; and the A-R zone is intended to implement the Plan's future land use recommendation for this location.

ATTEST: This 11th day of November, 2016.


Secretary, Jim Duncan

WILLIAM WILSON
CHAIR

K.R.S. 100.211(7) requires that the Council take action on this request by January 25, 2017.

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

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (10) Berkley, Cravens, Drake, Mundy, Owens, Penn, Plumlee, Richardson, Smith, and Wilson

NAYS: (0)

ABSENT: (1) Brewer

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for APPROVAL of MAR 2015-25 carried.

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

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

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

APPLICANT:	Erfan M. Alami, 253 Radcliffe Road, Lexington, KY 40505	Tel: (859) 420-2000
OWNER:	Erfan M. Alami, 253 Radcliffe Road, Lexington, KY 40505	Tel: (859) 420-2000
ATTORNEY:	Jacob (Jake) K. Michul Morgan & Pottinger, P.S.C.	133 West Short Street Lexington, KY 40507 Tel: (859) 226-5296

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

5898 Old Richmond Road, Lexington, KY 40515

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

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
B-1	Dwelling (nonconforming)	A-R	Dwelling (conforming)	3.24	3.76

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Agriculture, church, residential	A-R & B-1
East	Agriculture, church, residential, vacant, c-store	A-R & B-1
South	Agriculture, residential, vacant, c-store	A-R & B-1
West	Agriculture, residential	A-R

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 checked="" type="checkbox"/> NO ____ 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	<input type="checkbox"/> Developer	<input type="checkbox"/> Other	
Storm Sewers	<input type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other	not applicable
Sanitary Sewers	<input type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other	not applicable/septic
Curb/Gutter/Sidewalks	<input type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other	not applicable
Refuse Collection	<input type="checkbox"/> LFUCG	<input checked="" type="checkbox"/> Other			
Utilities	<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Gas	<input checked="" type="checkbox"/> Water	<input checked="" type="checkbox"/> Phone	<input 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.

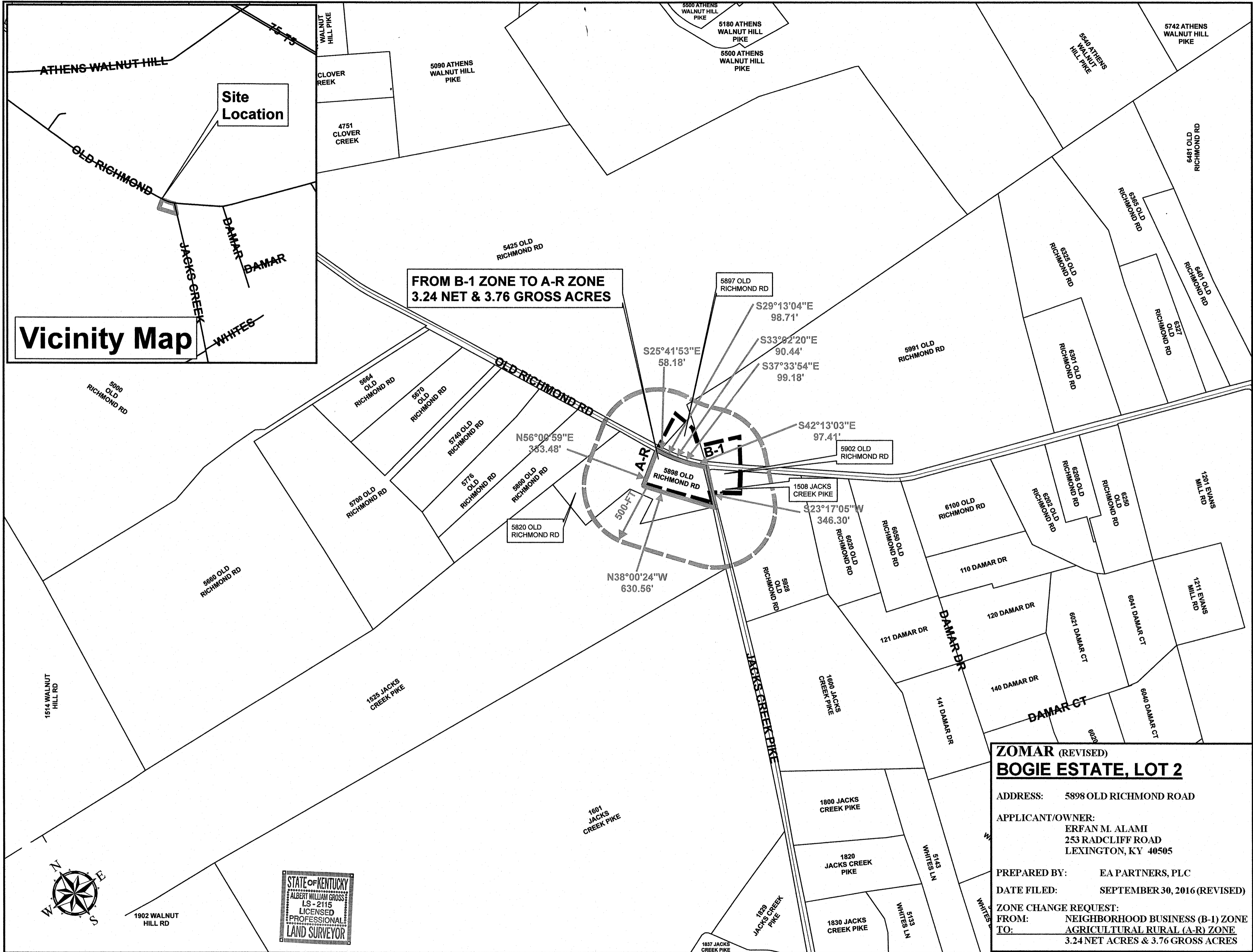
8. APPLICANT/OWNER SIGNS THIS CERTIFICATION

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 February 27, 2015

APPLICANT [Signature], Attorney for Applicant DATE 9-30-16

OWNER [Signature], Attorney for Owner DATE 9-30-16

LFUCG EMPLOYEE/OFFICER, if applicable _____ DATE _____



Vicinity Map

Site Location

**FROM B-1 ZONE TO A-R ZONE
3.24 NET & 3.76 GROSS ACRES**

**ZOMAR (REVISED)
BOGIE ESTATE, LOT 2**

ADDRESS: 5898 OLD RICHMOND ROAD

APPLICANT/OWNER:
ERFAN M. ALAMI
253 RADCLIFF ROAD
LEXINGTON, KY 40505

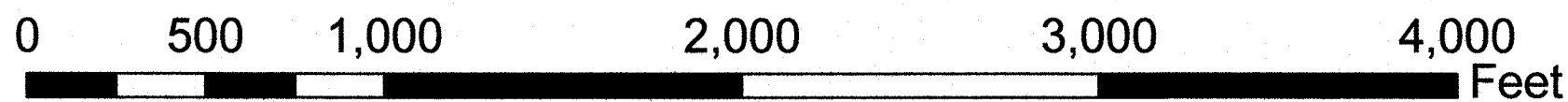
PREPARED BY: EA PARTNERS, PLC
DATE FILED: SEPTEMBER 30, 2016 (REVISED)

ZONE CHANGE REQUEST:
FROM: NEIGHBORHOOD BUSINESS (B-1) ZONE
TO: AGRICULTURAL RURAL (A-R) ZONE
3.24 NET ACRES & 3.76 GROSS ACRES



STATE OF KENTUCKY
ALBERT WILLIAM GROSS
LS - 2115
LICENSED
PROFESSIONAL
LAND SURVEYOR

Notification Map



7. JUSTIFICATION FOR REQUESTED CHANGE

Background

The applicant's property ("**Applicant Property**") is located at the southwestern corner of the intersection of Jacks Creek Pike and Old Richmond Road. It is 3.76 acres (gross), 3.24 acres (net).

The Applicant Property is zoned Neighborhood Business (B-1). A portion of the land to the northeast, east, and southeast of the Applicant Property is also zoned B-1. All of this B-1 land is surrounded by land zoned Agricultural Rural (A-R). In other words, this is a small pocket of B-1 land amidst a much larger area of A-R land.

There is a modest dwelling and a vacant block building on the Applicant Property. The dwelling and the block building are on opposite ends of the Applicant Property. The dwelling is located at the northern end of the Applicant Property (the side furthest from Jacks Creek Pike) and the block building is located at the southern end of the property (the side closest to Jacks Creek Pike).

Requested Zone Change

The applicant is seeking to rezone the entire Applicant Property from B-1 to A-R.

Purpose of Rezoning

A dwelling is not a permitted use in a B-1 zone. The existing dwelling on the Applicant property is however, permitted in its current form as a nonconforming use. It has a first level and a basement that contain approximately 1,440 square feet each and it also has a smaller unfinished attic. The applicant desires to use the property as his primary residence. He would like to renovate and expand the dwelling and have flexibility to determine and make future changes, enlargements, and/or modifications. Currently, this is not possible because a building used for a nonconforming use cannot be enlarged or expanded and improvement of the building in general is restricted.

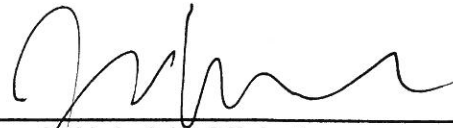
While not permitted in the B-1 zone, a single family dwelling is a permitted primary use in an A-R zone, and the purpose of the requested zone change is to convert the dwelling from a nonconforming use to a conforming use. This will give the applicant the ability to renovate, expand, modify, and otherwise improve with the same flexibility, and subject to the same restrictions, as the typical homeowner in the area.

Appropriateness of Zone Change and The 2013 Comprehensive Plan

The dwelling was constructed in approximately 1935, indicating a long history of residential use in this location. The surrounding area (except for the small amount of B-1 land concentrated around the intersection) is A-R and consists of agriculture/farming, vacant land, and single family residential use.

The present B-1 zoning allows and even encourages removing the dwelling and replacing it with more intensive commercial uses. The overall effect of the desired zone change is (i) an increase in agricultural space and (ii) a corresponding decrease in the B-1 space, which will prevent new commercial uses from entering this predominantly agricultural area. The Applicant has agreed with a neighborhood group that, if the zone change request is approved, he will remove the block building within three years of approval.

For these reasons, A-R zoning for this location is more appropriate than the current zoning. It is also consistent with the 2013 Comprehensive Plan in that it [1] expands housing choices (Chapter 1, Theme A, Goal 1), [2] encourages creativity in housing development (Chapter 1, Theme A, Goal 1a), [3] will lead to a reduction in Lexington-Fayette County's carbon footprint (Chapter 1, Theme B, Goal 2), [4] will protect natural resources and landscapes before development occurs (Chapter 1, Theme B, Goal 3b), [5] will protect and enhance the natural landscapes that give Lexington-Fayette County its unique identity and image (Chapter 1, Theme D, Goal 3), [6] supports the agricultural economy, horse farms, general agricultural, and the character of the surrounding rural area (Chapter 1, Theme E, Goal 2), and [7] protects and enhances the natural and environmental resources of our farmland to help promote our general agricultural brand and ensure that Lexington-Fayette County remains the Horse Capital of the World (Chapter 1, Theme E, Goal 2b).



Jacob (Jake) K. Michul
Attorney for the Applicant, Erfan Alami

STAFF REPORT ON AN AMENDED PETITION FOR ZONE MAP AMENDMENT

MAR 2015-25: ERFAN M. ALAMI (AMD)

DESCRIPTION

Zone Change: From a Neighborhood Business (B-1) zone
To an Agricultural Rural (A-R) zone

Acreage: 3.24 net (3.76 gross) acres

Location: 5898 Old Richmond Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	B-1	Single Family Residence and Agricultural
To North	A-R & B-1	Agricultural, Church
To East	B-1	Vacant
To South	A-R	Agricultural
To West	A-R	Agricultural

URBAN SERVICES REPORT

Roads – Old Richmond Road (US 25/421) bounds the property to the east. It is a two-lane, rural minor arterial highway along the subject property’s frontage. Jacks Creek Pike (KY 1975) is also a two-lane rural highway that borders the property to the southeast. No roadway improvements to Old Richmond Road or Jacks Creek Pike are planned. There are no local streets or access easements planned within the subject property and access to the site will not be modified.

Curb/Gutter/Sidewalks – Old Richmond Road has been constructed without gutter, curbing or sidewalks because these facilities are often associated with urban rather than rural roadways.

Storm Sewers – The property is located within the Shelby Creek watershed, which drains to the west, toward Tates Creek Road and northern Jessamine County. Storm sewer facilities do not serve this rural area, nor are any planned associated with this rezoning. There are no known flooding problems or FEMA designated Special Flood Hazard Areas within the immediate area.

Sanitary Sewers – The subject property is located outside of the Urban Service Area; therefore, it is not served by the LFUCG sanitary sewer system, and there are currently no plans to do so. The existing residence on the subject property has been served by a septic field for some time. The closest public sanitary sewers are approximately two miles north of the subject property, along Athens-Boonesboro Road.

Refuse – The Urban County Government does not currently service this area with refuse collection. Private refuse collection service is necessary to serve the single family residence on the subject property.

Police – The subject property is located within Police Sector 3, with the nearest police station located about five miles to the northwest, at the East Sector Roll Call Center in the Gainesway neighborhood.

Fire/Ambulance – The subject property is situated approximately 2¼ miles northwest from Fire Station #18, which is located at the intersection of S. Cleveland and Old Richmond Roads.

Utilities – Natural gas, electric, water and telephone service exist in the general vicinity of the proposed zone change.

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 2013 Comprehensive Plan also recommends supporting the agricultural economy, horse farms, general agricultural, and the character of the Rural Service Area (Theme E, Goal #2).

The Rural Land Management Plan, adopted by the Planning Commission in 1999, recommends Core Agricultural and Rural Land (CARL) use for the subject property.

The petitioner proposes to downsize the parcel in order to make renovations to the existing, non-conforming residence on the subject property.

CASE REVIEW

The petitioner has requested a zone change from a Neighborhood Business (B-1) zone to an Agricultural-Rural (A-R) zone for 3.24 acres of land, located at the intersection of Old Richmond Road and Jacks Creek Pike.

The subject property, which is located on the west side of Old Richmond Road, is completely located within a Neighborhood Business (B-1) zone, but has historically been utilized as a small farm. The property currently contains a single-family residence, and a barn-like structure at the intersection of Old Richmond Road and Jacks Creek Pike.

Agricultural land borders the subject property in almost every direction, although the property is also part of a 9.5-acre pocket of business zoning within the Rural Service Area, left over from the 1950s era. The Richmond Road Baptist Church is located within this 9.5-acre node (across Old Richmond Road to the northeast), as is a vacant convenience store/gas station across Jacks Creek Pike from the subject property (southeast corner of the intersection).

The petitioner proposes to downzone the property in order to fully utilize the existing single-family residence and make any necessary or desired improvements/expansions. Because the house is currently a non-conforming use due to its B-1 zoning, expansion and/or alterations to it are not permitted, which significantly limits its utility. Downzoning to A-R will allow the residence to be expanded, as it will no longer be non-conforming. However, downzoning will create a non-conforming A-R tract of land, since the lot is less than 4 acres in size, and the zoning category requires a minimum of 40 acres.

The 2013 Comprehensive Plan no longer contains a detailed land use element and map, but the Goals and Objectives of the Plan are utilized to help assess whether a proposed zone change can be found to be in agreement with the Plan. Theme E, Goal #3 encourages the support of our agricultural economy and the character of the Rural Service Area. Since the subject property has been utilized as a single-family residence since 1935, the staff does not believe that the character of the area will be changed with the proposed rezoning; in fact, it will be preserved. In addition, the Rural Land Management Plan recommends Core Agricultural and Rural Land (CARL) use for the subject property, which better aligns with the Agricultural Rural (A-R) zone now proposed by the petitioner.

The 1999 Rural Land Management Plan identified 23 non-agricultural or non-residential pockets of urban zoning that "have the potential for being developed in a manner incompatible with a program of rural preservation." The RLMP recommended that most of the sites, including the 9.5-acre rural crossroads that encompasses the subject property, be zoned to A-R or another appropriate category unless the site was currently supporting a business that served the rural area. Since the existing residence has been there since 1935, the subject property is a perfect candidate for downzoning to the A-R zone, which is

also consistent with the adjoining land. Based upon these facts, the staff supports the proposed rezoning.

The Staff Recommends: **Approval**, for the following reason:

1. The requested Agricultural Rural (A-R) zone is in agreement with the 2013 Comprehensive Plan and the 1999 Rural Land Management Plan, for the following reasons:
 - a. The 2013 Comprehensive Plan Goals and Objectives recommend supporting the agricultural economy and the character of the Rural Service Area. Since the subject property has been utilized as a single-family residence since 1935, retaining the residence in a conforming manner will better preserve the rural character of the immediate area.
 - b. The Rural Land Management Plan recommends Core Agricultural and Rural Land (CARL) future land use for the subject property. The property is located within the Rural Service Area; is not served by typical urban services, such as sanitary sewers, storm sewers, solid waste collection or curb/gutter/sidewalks; and the A-R zone is intended to implement the Plan's future land use recommendation for this location.

TLW/BJR/WLS
12/2/15, 10/3/16 amd
Planning Services/Staff Reports/MAR/2015/MAR 2015-25amd.doc

1. ERFAN M. ALAMI (AMD) ZONING MAP AMENDMENT

- a. MAR-2015-25: ERFAN M. ALAMI (AMD) – an amended petition for a zone map amendment from a Neighborhood Business (B-1) zone to an Agricultural Rural (A-R) zone, for 3.24 net (3.76 gross) acres, for property located at 5898 Old Richmond Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan’s mission statement is to “provide flexible planning guidance to ensure that development of our community’s resources and infrastructure preserves our quality of life, and fosters regional planning and economic development.” The 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 2013 Comprehensive Plan also recommends supporting the agricultural economy, horse farms, general agricultural, and the character of the Rural Service Area (Theme E, Goal #2).

The Rural Land Management Plan, adopted by the Planning Commission in 1999, recommends Core Agricultural and Rural Land (CARL) use for the subject property.

The petitioner proposes to down zone the parcel in order to make renovations to the existing, non-conforming residence on the subject property.

The Zoning Committee Recommended: **Approval.**

The Staff Recommends: **Approval**, for the following reason:

- 1. The requested Agricultural Rural (A-R) zone is in agreement with the 2013 Comprehensive Plan and the 1999 Rural Land Management Plan, for the following reasons:
 - a. The 2013 Comprehensive Plan Goals and Objectives recommend supporting the agricultural economy and the character of the Rural Service Area. Since the subject property has been utilized as a single-family residence since 1935, retaining the residence in a conforming manner will better preserve the rural character of the immediate area.
 - b. The Rural Land Management Plan recommends Core Agricultural and Rural Land (CARL) future land use for the subject property. The property is located within the Rural Service Area; is not served by typical urban services, such as sanitary sewers, storm sewers, solid waste collection or curb/gutter/sidewalks; and the A-R zone is intended to implement the Plan’s future land use recommendation for this location.

Staff Zoning Presentation – Ms. Wade presented the staff report on this zone change. She summarized the staff report and recommendations of the proposed zone change.

She stated that there is a residence on the parcel that the applicant wishes to improve. Because this is a non-conforming structure, this is not permitted under the B-1 zone. The petitioner had originally proposed to rezone a portion of the property, but they have amended their application to rezone the entire 3.24 acres of land.

Commission Comments –There was a comment that there have already been improvements at this location. Ms. Wade stated that the applicant was unaware that they couldn’t perform any improvements because it’s a non-conforming structure. The owner was notified that they couldn’t proceed with their improvements because they involved expansion in terms of square footage of the residential structure, which initiated the zone change request.

Petitioner Presentation – Jake Michul, Morgan & Pottinger, P.S.C., was present representing the petitioner. He said that he believes the applicant is in agreement with the staff’s recommendations.

Commission Comments – There was a question in regard to the old structure at the corner of Old Richmond Road and Jacks Creek Pike on the property. Mr. Michul stated that the petitioner will be removing that structure within the next three years. It is an accessory structure in the A-R zone and will serve as a storage area during the improvements.

Citizen Comments – There were no citizens present to comments on this application.

Zoning Action – A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 10-0 (Brewer absent) to approve MAR-2015-25: ERFAN M. ALAMI (AMD), for the reasons provided by the staff.

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