



## FAYETTE ALLIANCE

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November 10, 2016

Dear Chairman Bibb and Members of the Rural Land Management Board,

Please accept this letter on behalf of the Fayette Alliance. Founded in 2006, the Fayette Alliance is a coalition of citizens dedicated to achieving sustainable growth in Lexington-Fayette County through land use advocacy, education, and promotion. The Fayette Alliance believes that preserving our unique and productive Bluegrass farmland, advancing innovative development, and improving our infrastructure are essential to our collective success in Lexington.

As you know, the Rural Land Management Plan (RLMP) is currently being updated for the first time since its adoption in 1999. The RLMP articulated the importance and unique value of the Rural Service Area to our community and set forth a plan to preserve, protect, and promote our agricultural economy and Bluegrass landscape.

The cornerstone of that plan is the Purchase of Development Rights (PDR) program. The architects of the PDR program were a diverse group of stakeholders, including developers and farmers, who showed tremendous leadership and foresight in crafting the program.

Recognizing the centrality of agriculture to our economic development and stability, the purpose of the PDR program is to “preserve a ‘critical mass of land’ for agricultural uses” in a concentrated manner that “would maximize its benefit to the agriculture industry of Fayette County.”<sup>1</sup> As the RLMP notes, agriculture is an industry like any other, “with the ‘factory’ being the land itself.”<sup>2</sup>

However, unlike other industries, our “factory floor” is a finite, irreplaceable asset—the phosphorous rich, prime soils that comprise nearly 90% of the Rural Service Area.<sup>3</sup> Thus, unlike other industries, our agricultural industry cannot be relocated—it is inextricably linked to the land.

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<sup>1</sup> LFUCG Rural Land Management Plan, 1999, pg. V-7 (hereinafter cited as RLMP).

<sup>2</sup> RLMP, pg. I-3.

<sup>3</sup> RLMP, pg. III-2.



The PDR program typically receives \$2 million from the general fund to purchase easements. This represents less than 1% of the overall city budget.<sup>4</sup> Yet, our Rural Service Area contributes so much to our economy and more than pays for itself.

- Fayette County has the highest agricultural receipts of any county in Kentucky;<sup>5</sup>
- Fayette County's agricultural industries generate \$2.4 billion annually in output and \$1.32 billion in additional income, profits, and dividends;<sup>6</sup>
- Fayette County's agricultural industries contribute over \$66 million in tax revenue collected from state income and sales tax;<sup>7</sup>
- Fayette County's agricultural industries contribute approximately \$7 million in local payroll tax;<sup>8</sup>
- 1 in 9 jobs in Fayette County is supported by agriculture;<sup>9</sup>
- In 2015, expenditures related to travel and tourism in Fayette County totaled over \$2 billion;<sup>10</sup>
- In 2015, 15,339 individual jobs in Fayette County were related to travel and tourism.<sup>11</sup>

Few investments realize such a high rate of return.

Unlike many other government programs, the PDR program delivers on its promises. Since its inception in 2000, 261 farms have been permanently protected, totaling nearly 30,000 acres of land.<sup>12</sup> Protecting this land provides economic stability and security for us all. Protecting the land ensures the

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<sup>4</sup> See i.e., LFUCG FY 2017 Adopted Budget. The 2013 Comprehensive Plan includes supporting the PDR program as an objective "to protect, preserve and enhance our signature agricultural industries, historic structures, cultural landscapes, natural environments, and community welfare." Pg. 9.

<sup>5</sup> Kentucky Farm Bureau, "Kentucky Agricultural Facts," 2<sup>nd</sup> ed., 2015.

<sup>6</sup> Alison Davis, et al., "The Influence of the Agricultural Cluster on the Fayette County Economy," University of Kentucky, College of Agriculture, January, 2013.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> "Economic Impact of Kentucky's Travel and Tourism Industry—2014 and 2015," Kentucky Tourism, Arts & Heritage Cabinet.

<sup>11</sup> Id.

<sup>12</sup> <https://www.lexingtonky.gov/departments/purchase-of-development-rights>.

The goal of the program is to protect 50,000 acres. "...[I]t is the purpose of this Ordinance to establish a program for the preservation and management of agricultural, rural and natural lands which will over the next twenty (20) years purchase perpetual Conservation Easements on fifty thousand (50,000) acres in the rural service area..." LFUCG Ordinance, Chapter 26; see also RLMP, pg. V-2.

continued viability and growth of our agricultural economic base and burgeoning tourism industry, as well as provide for future food security and sustainability.<sup>13</sup>

Paramount to the program's success is the equitable way in which it has been implemented. As stated in the RLMP, "[t]he PDR program must be administered equitably. A Land Evaluation and Site Assessment (LESA) procedure should be established which would create an objective, point-based system for the determination of priority acquisition."<sup>14</sup>

In order to remove any ability or suspicion that the program could be used to enrich individual land owners or be applied in a discriminatory manner, an equitable, objective, points-based system was created and adopted in the Ordinance.<sup>15</sup> The Ordinance provides that farms comprised of the highest percentage of prime soils receive the most points, thereby clearly implementing the program's policy and aim to protect the highest quality land for future agricultural use.<sup>16</sup>

Additional criteria include:

- Size of parcel;
- Proximity to other PDR protected farms;
- Farm activity;
- Agricultural improvements;
- Environmentally sensitive areas;
- Designated rural greenway;
- Natural protection areas;
- Historic/Cultural resources;
- Scenic resources.<sup>17</sup>

Notably, landownership is completely irrelevant to the evaluation calculus. A fair and equitable program cannot include consideration of ownership. The Ordinance was carefully crafted to ensure objectivity and focus on the purpose of the program. Changing the program when it is so close to meeting its goal simply makes no sense and begs the question "why," when it is clearly working and is a model of success.

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<sup>13</sup> According to the Food and Agricultural Organization of the United Nations, food production must increase by 60% by 2050 to meet demand from the world's growing population. [www.fao.org/sustainability/en/](http://www.fao.org/sustainability/en/).

<sup>14</sup> RLMP, pg. V-9.

<sup>15</sup> Ordinance § 26-10.

<sup>16</sup> Id. at § 26-10(4).

<sup>17</sup> Length of public road frontage, designated focus areas, linkages, elimination of undeveloped nonconforming tracts, proximity to urban service area boundary, location within Sewerability Categories I, II, III, IV are also included as criteria. Id. at 26-10.

In addition to local dollars, state and federal matching funds have been used to purchase easements, but not always. While the availability of matching funds has enabled us to purchase more easements and near the goal of 50,000 protected acres faster, the Ordinance has never been interpreted to require the use of state or federal matching funds.<sup>18</sup> If use of those matching funds means that we deviate from the purpose of the program or lose sight of the goal, then they should not be used. And if that means that easements are purchased at a slower rate, so be it.

The PDR program, like land use matters generally, is a local issue that should be based upon local criteria and under local control. Abdicating control over the cornerstone of our rural land management plan to the state or federal government is irresponsible and reneges on the promise made to our community when the program was created—to preserve the highest quality land, irrespective of ownership, for future agricultural use.

Much is at stake, and we respectfully request that any proposed amendment to the Ordinance keep the purpose and goals of the program firmly in mind. Given the overwhelming success of the program, any amendment should be justified upon the basis of furthering the program's intent.

The Rural Land Management Board has led the PDR program with integrity, objectivity, and a clear purpose. We applaud the Board members for their leadership and appreciate their service and commitment to protecting our agricultural economy, cultural heritage, and irreplaceable Bluegrass farmland.

Thank you for your consideration. We would be happy to discuss the matter or assist in any way.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Susan B. Speckert". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Susan B. Speckert, J.D.  
Executive Director

cc: Honorable Jim Gray, Mayor  
Derek Paulsen, Commissioner of Planning, Preservation & Development  
LFUCG Council Members

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<sup>18</sup> Kentucky courts have long held that “construction of a law or regulation by officers of an agency continued without interruption for a long period of time is entitled to controlling weight.” *White v. Check Holders, Inc.*, 996 S.W.2d 496, 498 (Ky. 1999) (internal citations omitted).