

MAR 2013-19

Date Received 11/4/13

Pre-Application Date 10/10/13

Filing Fee \$ 490.00

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

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

APPLICANT: RTA Family Trust, Royce G. Pulliam, Trustee 1056 Wellington Way, Suite 190, Lexington, KY 40503 (859) 259-5993
OWNER: Same
ATTORNEY: Christine N. Westover or W. Brent Rice 201 E. Main Street, Ste. 900, Lexington, KY 40507 (859) 231-8780

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

1009 and 1017 Wellington Way, Lexington, KY 40503

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

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
1009 Wellington					
R-3	Day care	B-1	offices with limited	0.8108	1.0549
1017 Wellington			retail		
P-1	Vacant	B-1	offices with limited	0.7561	0.8127
			retail		

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Office; residential	P-1; A-U
East	Office	P-1
South	Restaurant; retail	B-1
West	Office	P-1

5. 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 _____ 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 checked="" type="checkbox"/> Existing	<input checked="" type="checkbox"/> To be constructed by	<input checked="" type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input checked="" type="checkbox"/> To be constructed by	<input checked="" type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input type="checkbox"/> Other		
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

7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)

This is in... <input checked="" type="checkbox"/> in agreement with the Comp. Plan <input type="checkbox"/> more appropriate than the existing zoning <input type="checkbox"/> due to unanticipated changes.
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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 _____.

APPLICANT	DATE <u>Oct 31, 2013</u>
OWNER <u>Christ Westover attorney in fact for RTA Family Trust, Royce G Pulliam, trustee</u>	DATE _____
LFUCG EMPLOYEE/OFFICER, if applicable _____	DATE _____

(M C B R A Y E R)

McBrayer, McGinnis, Leslie & Kirkland, PLLC

ATTORNEYS AT LAW

CHRISTINE N. WESTOVER
CWESTOVER@MMLK.COM

201 EAST MAIN STREET, SUITE 900
LEXINGTON, KENTUCKY 40507
(859) 231-8780 EXT. 137
FAX: (859) 253-0706

November 6, 2013

Mike Owens, Chair
Lexington-Fayette Urban County Planning Commission
101 E. Vine Street, 7th Floor
Lexington, Kentucky 40502

RE: Rezoning Application R-3 and P-1 to B-1
1009 and 1017 Wellington Way

Dear Chairman Owens,

I represent RTA Family Trust, Royce G. Pulliam Trustee ("RTA"), the owner of 1009 and 1017 Wellington Way. RTA developed the adjoining professional office property at 1031 Wellington Way, the B-1 lot across Wellington Way that is operated by Panera. Its corporate offices are on the property it owns next to Panera, at 1056 Wellington Way. RTA recently acquired 1017 Wellington Way, a vacant P-1 zoned lot and an adjoining parcel, 1009 Wellington Way which is zoned R-3. The R-3 lot is currently occupied by La Petite Academy, a child care facility that serves over 100 children. La Petite Academy will be relocating to another site and the existing building will be demolished.

RTA proposes to rezone 1009 and 1017 Wellington Way to the neighborhood business (B-1) zone in order to construct a three-story, 23,328 gross square foot, mixed-use building that will occupy both lots. Parking and other associated improvements will be provided. Most of the building, 16,350 gross square feet, will consist of offices on the second and third stories. The ground floor is proposed for 5056 gross square feet of neighborhood oriented retail and a 1922 square foot coffee shop.

The zone change is justified based on substantial agreement with the Comprehensive Plan. The Land Use Map Element of the 2007 Comprehensive Plan recommends future professional service/office uses for the property. The proposed rezoning is consistent with this recommendation since the largest amount of space will be used for offices, with only a smaller area proposed for business uses.

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The proposed zoning is consistent with the factors to consider set out on pp. 229-230 of the Comprehensive Plan ("Plan") in determining agreement with the Plan. The rezoning will allow a mixed-use building of primarily office space with a small component of neighborhood retail. This will create a cohesive urban form, promote development that links rather than isolates the community and neighborhood and furthers the Plan's adopted Goals and Objectives without adversely impacting other Plan elements. The proposal substantially incorporates the recommendations in the Plan's Land Use Chapter and will provide needed services to the immediate neighborhood. The project is not dictated by surface parking and, in fact, will share parking and access with the adjoining P-1 zoned office development. The rezoning substantially complies with the future Land Use Map.

The proposal also agrees with other key Plan elements, including many of the principles set out in the Land Use Relationships section, such as: including ensuring that commercial land uses be appropriately sized by considering the impact on surrounding existing land uses and the street network; locating employment areas and residential areas so as to effectively use the street network; providing convenient access to commercial areas and employment sites; and providing neighborhood commercial areas within walking distance to area residents. The building is conveniently located near residential areas, which will facilitate walkability and integration with surrounding neighborhoods and destinations.

The rezoning request complies with relevant Goals and Objectives of the 2012 Comprehensive Plan, the only element adapted to date, including Goal C, Creating Jobs and Prosperity, and its related Objectives that support and encourage the creation of a variety of jobs and business opportunities. Uses in the development will interact with existing uses in the vicinity, which will help create a mutually beneficial economic effect to the overall area.

RTA intends to develop a high quality project that will integrate compatibly with the surrounding area and will be sensitive to the nearby residential area. Accordingly, we propose the following conditional zoning restrictions to limit the potential intensity and negative impact on nearby properties and to ensure the preservation of the existing character of the area:

Prohibited Principal Uses:

- Automobile service stations
- Repair of household appliances
- Retail sale of plant, nursery or greenhouse products
- Outdoor miniature golf or putting courses
- Carnivals
- Arcades, including pinball and electronic games
- Banquet facility
- Rental of equipment whose retail sale is permitted in the B-1 zone

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Prohibited Conditional Uses:

Outdoor live entertainment, cocktail lounges, brews pubs or nightclubs
Upholstery shop
Circuses
Automobile and truck refueling stations

Use Restriction:

Retail and other uses first permitted in the B-1 zone shall be limited to the first floor. **(alternative language: "Retail and other uses first permitted in the B-1 zone shall be limited to 6500 square feet.")

In addition to rezoning the property, we are requesting a variance to increase the height of the building by 35', from 25' to 60'. More than two-thirds of the building will be used for offices. The B-1 zone carries forward all the principal uses that are allowed in the P-1 zone, including offices. The vacant lot that is being rezoned is currently zoned P-1, which if developed under its existing zoning category, could allow a 90' building, since the height requirement for P-1 lots is based on a 3:1 height to yard ratio. Thus the requested variance will have less of an impact than if the property were developed under P-1 zoning regulations. Too, the height variance is consistent with the 65' height permitted as a conditional use in the B-1 zone for buildings containing business uses on the first floor with residential above. Granting the variance will not alter the essential character of the general area, which is mainly P-1 zoned property and can allow taller buildings that that being proposed. Allowing the height variance is not an unreasonable circumvention of the zoning ordinance, since buildings as tall or taller are already permitted by right on nearby P-1 zoned properties. The requested variance will not cause a hazard or nuisance to the public because the overall project will be attractive, well designed to accommodate traffic flow and it will offer needed goods and services to residents and workers in the nearby area.

In conclusion, we respectfully request approval of the rezoning application and variance as submitted, for the reasons set out herein. We look forward to discussing this matter further with staff and presenting it to the Planning Commission in December.

Sincerely,



CHRISTINE N. WESTOVER

CNW/klm

**Proposed
Zone Map Amendment
R-3 to B-1
RTA Family Trust Property
Deed Book 3178, Page 354
Lot 5 of Plat Cabinet I, Slide 107
1009 Wellington Way
Lexington, Fayette County, Kentucky**

Being a parcel of land on the north side of Wellington Way in Lexington, Kentucky, located at the northwest corner of the intersection of said Wellington Way and Palomar Center Drive and being approximately 300 feet west of the intersection of said Wellington Way and Harrodsburg Road (US 68), and being more particularly described as:

Beginning at a MAG Nail with stainless steel ID washer (set, PLS 3350) set in a concrete sidewalk, said point being in the north right-of-way line of Wellington Way, said point being the southeast corner of RTA Family Trust (Deed Book 3171, Page 524; Lot 4 of Plat Cabinet "I", Slide 107), and said point having Kentucky State Plane Coordinates of N=184,149.64 E=1,548,332.88 (KY North Zone NAD83, US Survey Feet); thence with the easterly line of said RTA Family Trust for two (2) calls:

North 36°24'57" East a distance of 143.47 feet to a 24"-long, 5/8" diameter rebar with plastic surveyor's cap (set, PLS 3350); thence

South 50°27'30" East a distance of 70.50 feet to a 5/8" diameter rebar (found), said point being the southwest corner of Song M. Kim & Su Ok Kim (Deed Book 2613, Page 596; Lot 2B of Plat Cabinet "M", Slide 734); thence leaving the easterly line of said RTA Family Trust and with the southerly line of said Song M. Kim & Su Ok Kim,

South 50°27'30" East a distance of 185.55 feet to a 1/2" diameter rebar (found), said point being the northwest corner of RCR Properties, LLC (Deed Book 2701, Page 502; Lot 1 of

Plat Cabinet "I", Slide 107); thence leaving said Song M. Kim & Su Ok Kim and with the westerly line of said RCR Properties, LLC,

South $36^{\circ}24'57''$ West a distance of 144.50 feet to a MAG Nail with stainless steel ID washer (PLS 3350) set in bituminous pavement, said point being the southwest corner of said RCR Properties, LLC and being in the north right-of-way line of Wellington Way; thence leaving RCR Properties, LLC and continuing with a new line

South $36^{\circ}24'57''$ West a distance of 40.50 feet to a point in the centerline of said Wellington Way; thence with the centerline of Wellington Way for three (3) calls:

North $43^{\circ}17'36''$ West a distance of 35.30 feet to a point;

thence with a curve turning to the right with a radius of 922.33 feet, with an arc length of 118.06 feet, with a chord bearing of North $49^{\circ}51'04''$ West, and with a chord length of 117.98 feet, to a point; thence

North $47^{\circ}49'37''$ West a distance of 103.73 feet to a point; thence leaving the centerline of Wellington Way and with a new line through the Wellington Way right-of-way,

North $36^{\circ}24'57''$ East a distance of 31.11 feet to a MAG Nail with stainless steel ID washer (set, PLS 3350); which is the Point of Beginning, having a gross area of 45,949.7 square feet or 1.0549 acres and a net area of 0.8108 Acre or 35,318.3 square feet.

The bearings used in the description above are based on Kentucky State Plane Grid North, North American Datum of 1983 (North Zone, NAD 83). The bearings are based on a GNSS survey commencing at a Lexington Urban County Government (LFUCG) Monument, having a point designation of "0043 AZI" and having geographic coordinates of N $38^{\circ} 00' 08.42622''$, W $084^{\circ} 34' 18.37965''$ and Kentucky State Plane Coordinates of N = 183,094.863', E = 1,547,697.250' (North Zone, NAD 83, US Survey Feet).

The description above being based on an actual ground survey of the property conducted under the direct supervision of Kevin M. Phillips (PLS 3350). The Ground survey was concluded on October 23, 2013.

Kevin M. Phillips
Kentucky Professional Surveyor #3350
Endris Engineering, PSC
771 Enterprise Drive
Lexington, KY 40510
Phone: 859-253-1425
Email: kevin@endris.com

Z:\3216 Wellington Way Re-Zoning\Legal Descriptions\R-3 to B-1.wpd
October 28, 2013

**Proposed
Zone Map Amendment
P-1 to B-1
RTA Family Trust Property
Deed Book 3171, Page 524
Lot 4 of Plat Cabinet I, Slide 107
1017 Wellington Way
Lexington, Fayette County, Kentucky**

Being a parcel of land on the north side of Wellington Way in Lexington, Kentucky, approximately 257 feet west from the intersection of said Wellington Way and Palomar Center Drive and approximately 550 feet west of the intersection of said Wellington Way and Harrodsburg Road (US 68), and being more particularly described as:

Beginning at a MAG Nail with stainless steel ID washer (PLS 3350) set in a concrete sidewalk, said point being in the north right-of-way line of Wellington Way, said point being the southwest corner of RTA Family Trust (Deed Book 3178, Page 354; Lot 3 of Plat Cabinet "I", Slide 107), and said point having Kentucky State Plane Coordinates of N=184,149.64 E=1,548,332.88 (KY North Zone NAD83, US Survey Feet); thence with a new line through the Wellington Way right-of-way,

South 36°24'57" West a distance of 31.11 feet to a point on the centerline of said Wellington Way; thence with the centerline of said Wellington Way for two (2) calls:

North 47°49'37" West a distance of 53.66 feet to a point;

thence with a curve turning to the left with a radius of 630.00 feet, with an arc length of 31.59 feet, with a chord bearing of North 49°15'48" West, and with a chord length of 31.59 feet to a point; thence leaving the centerline of said Wellington Way and continuing with a new line through the Wellington Way right-of-way,

North 31°04'36" East a distance of 30.32 feet to MAG Nail with stainless steel ID washer (PLS 3350) set in a concrete sidewalk, said point being in the north right-of-way line of Wellington Way, and said point being the southeast corner of Wellington Place Office Condominiums (Deed Book 2612, Page 318; Lot 4 of Plat Cabinet "M", Slide 384); thence with the easterly line of said Wellington Place Office Condominiums,

North 31°04'36" East a distance of 238.17 feet to a 1/2" diameter rebar with plastic surveyor's cap (found, PLS 2404), said point being the northeast corner of said Wellington Place Office Condominiums, and said point being a point in the southerly line of Suzanne P. Dozier (Deed Book 2887, Page 265); thence leaving the easterly line of Wellington Place Office Condominiums and with the southerly line of Suzanne P. Dozier,

South 59°05'22" East a distance of 185.87 feet to a 5/8" diameter rebar with plastic surveyor's cap (found, PLS 2404), said point being a point on the southerly line of Suzanne P. Dozier, and said point being the Northwest corner of Song M. Kim & Su Ok Kim (Deed Book 2613, Page 596; Lot 2B of Plat Cabinet "M", Slide 734); thence leaving the southerly line of Suzanne P. Dozier and with the westerly line of said Song M. Kim & Su Ok Kim,

South 38°38'21" West a distance of 122.27 feet to a 5/8" diameter rebar (found), said point being the southwest corner of Song M. Kim & Su Ok Kim, and said point being on the northerly line of RTA Family Trust (Deed Book 3178, Page 354; Lot 3 of Plat Cabinet "I", Slide 107); thence leaving Song M. Kim & Su Ok Kim and with the northerly line of RTA Family Trust,

North 50°27'30" West a distance of 70.50 feet to a 24"-long, 5/8" diameter rebar with plastic surveyor's cap (set, PLS 3350), said point being the northwest corner of said RTA Family Trust; thence with the westerly line of said RTA Family Trust,

South 36°24'57" West a distance of 143.47 feet to a MAG Nail with stainless steel ID washer (set, PLS 3350); which is the Point of Beginning, having a gross area of 35,401.2 square feet, or 0.8127 acre and a net area of 32,806.5 square feet, or 0.7561 acre.

The bearings used in the description above are based on Kentucky State Plane Grid North, North American Datum of 1983 (North Zone, NAD 83). The bearings are based on a GNSS survey commencing at a Lexington Urban County Government (LFUCG) Monument, having a point designation of "0043 AZI" and having geographic coordinates of N 38° 00' 08.42622", W 084° 34' 18.37965" and Kentucky State Plane Coordinates of N = 183,094.863', E = 1,547,697.250' (North Zone, NAD 83, US Survey Feet).

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Kevin M. Phillips
Kentucky Professional Surveyor #3350
Endris Engineering, PSC
771 Enterprise Drive
Lexington, KY 40510
Phone: 859-253-1425
Email: kevin@endris.com

Z:\3216 Wellington Way Re-Zoning\Legal Descriptions\P-1 to B-1.wpd
October 24, 2013

NOTIFICATION AREA MAP
SCALE: 1"=200'

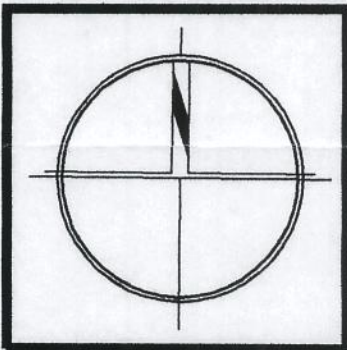
PROPERTY MAP
SCALE: 1"=100'

0.8127 AC GROSS / 0.7651 AC NET
ROYCE G. PULLIAM, TRUSTEE
1017 WELLINGTON WAY
CHANGE REQUESTED FROM P-1 TO B-1

1.0549 AC GROSS / 0.8108 AC NET
ROYCE G. PULLIAM, TRUSTEE
1009 WELLINGTON WAY
CHANGE REQUESTED FROM R-3 TO B-1



VIGNITY MAP
MS



ZOMAR: RTA FAMILY TRUST, ROYCE G. PULLIAM, TRUSTEE

STATE OF KENTUCKY
Roger Ladenburger
315
LICENSED
LAND SURVEYOR

APPLICANT: RTA FAMILY TRUST, ROYCE G. PULLIAM, TRUSTEE	FROM	TO	GROSS	NET
PROPERTY ADDRESS: 1009 & 1017 WELLINGTON WAY, LEX., KY.	R-3	B-1	1.0549	0.8108
OWNER: SAME AS APPLICANT	P-1	B-1	0.8127	0.7561
ADDRESS: 1056 WELLINGTON WAY, STE. 190 LEX., KY 40513				
PREPARED BY: WHEAT & LADENBURGER				
212 NORTH UPPER STREET, LEXINGTON, KY.				
DATE FILED: NOVEMBER 4, 2013				
TOTALS			1.8676	1.5669