

## GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

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

APPLICANT:	Little Beginners Child Development Center, 3236 Yellow Stone Pkwy, Lexington, Ky. 40517 /Phone 859-420-7817
OWNER:	Francis Said, 4809 Hempstead Drive, Lexington, Ky. 40517 / Phone 859-420-7817
ATTORNEY:	John N. Billings, Esq., 111 Church Street, Suite 200, Lexington, Ky. 40507/ Ph. 859-225-5240

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

474 Stone Road

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

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-1B	Church	R-3	Child Care	0.91	1.00

**4. SURROUNDING PROPERTY, ZONING & USE**

Property		Use	Zoning
North	Residential		R-1C
East	Commercial		R-1B
South	Commercial		R-1B
West	Residential		R-1C

**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 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 checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input type="checkbox"/> Existing	<input checked="" 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...  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 \_\_\_\_\_.

APPLICANT Francis Said DATE 03/31/14

OWNER FRANCIS SAID DATE 03/31/14

LFUCG EMPLOYEE/OFFICER, if applicable \_\_\_\_\_ DATE \_\_\_\_\_



7. **JUSTIFICATION FOR REZONING FROM R-1B to R-3 AND FOR  
CONDITIONAL USE PERMIT.**

I. **Zone Change**

A. **Overview**

The Applicant, Little Beginners Child Development Center, LLC, and its principals, Francis and Simon Said, the owners of the Property identified herein, seek a zone change for the property located at 474 Stone Road, Lexington, Fayette County, Kentucky 40515 (the "Property"), from R-1B to R-3, and for approval of a conditional use of a Day care and preschool (a Child Care Center as defined in the LFUCG Zoning Ordinance)<sup>1</sup> on the Property.

Currently, the Property is zoned R-1B, and the current principal use is as a Church. The previous owner, Grace and Truth Church of Winchester, purchased the Property in 2007, in order to open a satellite campus to its primary church location in Winchester. Grace and Truth ultimately closed the satellite campus for financial reasons, and deeded the Property back to Central Bank and Trust. The Property has been used as church since at least 1965. (At least two prior churches have owned the property and operated a church on it).

Applicant (the Saims) recently purchased the Property from Central Bank and Trust, which acquired title to the property via a deed in lieu of foreclosure against the property, from Grace and Truth. They desire to change the zoning, to utilization as a Child Care Center.

The Property is approximately 1 acre, and was subdivided from the property now known as 500 Stone Road. See attached Property map.

Applicant intends to install curb, gutters and sidewalks along Stone Road, to conform to the road improvements located on both adjoining parcels, 500 Stone Road and 460 Stone Road (both of which already have curb, gutters and sidewalks).

As set forth herein, this zone change will bring the zoning classification to be consistent with surrounding land uses and with 2013 Comprehensive Plan. The current zoning, R-1B, provides that a Child Care Center can be a conditional use provided that such use is accessory to a church (or school or private club). (See LFUCG Zoning Ordinance, Article 8-6, referring to Article 8-5). However, because the Property will no longer be used as church, R-1B zoning is no longer appropriate to the site.

Further, the conditional use sought is consistent with the proposed use of the property. The request for rezoning and conditional use is sought for the following reasons:

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<sup>1</sup> A "Child Care Center" is "Any facility which provides full or part-time care, other than family child care, day or night, to children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the operator, as regulated by the Commonwealth of Kentucky." See LFUCG Zoning Ordinance, Article 1, General Provisions and Definitions.



1. The Property and its features are better suited for R-3 zoning, as opposed to its current R-1B zoning, or other zone classifications that would permit the Child Care Center (such as P-1);
2. The rezoning will bring the Property into compliance with the 2013 Comprehensive Plan and 2007 Comprehensive Plan Land Use Map recommendations;
3. The Rezoning and Conditional Use will satisfy the 2013 Comprehensive Plan Goals and Objectives;
4. The Rezoning is consistent with the existing zoning for adjacent land use; and
5. The Conditional Use is consistent with the current accessory, conditional use of the Property.

B. The Property its features and parking.

The Property consists of 1 gross acre.

It does not have any features that would speak against rezoning. For example:

- It does not have any existing cemeteries;
- It does not have any existing lakes or ponds;
- It does not have any existing stone fences;
- It is not adjacent to an LFUCG park or greenspace;
- It is not adjacent to a school or school property;
- There are no hazardous material stored on site;
- There is no stream channelization being proposed;
- There are no significant areas for any cut or refill needed;
- There is no grading plan needed;
- There is no impact on any greenways;
- There are no proposed restaurants;
- There are no easements existing which would preclude the requested zone change; and
- There are no sinkholes.

Further, the Property has currently 14 existing designated parking spaces. It is only required to have three spaces for the first 12 children, plus one parking space for every additional ten children. Thus, the Applicant could have approximately 122 children in its day care center under the existing parking, the building and site would not support that large of a number of children.

The current size of the building will only permit 85 children under current Kentucky law regulations, and thus Applicant is seeking approval for 85 children (maximum), which requires minimum parking of only 10 spaces.



The required minimum play area is 2,125 square feet, and the proposed play area is 2,290 square feet.

Thus, the current parking and proposed play area meets or exceeds the required parking for a Child Care Center.

C. Goals and Objectives of the 2013 Comprehensive Plan.

The Preamble to the 2013 Comprehensive Plan provides:

To ensure that the urban growth boundary policies and other long range planning issues address the expected needs for new urban development and contribute to the prosperity of Lexington Fayette County, these goals and objectives have been drafted based upon the determined community needs of today with confidence that they will continue to be reviewed and revised as necessary.

Goal 2, of Theme A, Growing Successful Neighborhoods, states:

Goal 2: Support infill and redevelopment throughout the Urban Service Area as a strategic component of growth.

To achieve this Goal 2, Objective 2(a) states:

a. Identify areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features whenever possible.

Goal 1 of Theme C, Creating Jobs and Prosperity, states:

Goal 1: Support and showcase local assets to further the creation of a variety of jobs.

Objectives 1(a) and (d) state:

a. Strengthen efforts to develop a variety of job opportunities that lead to prosperity for all.

d. Foster the success and growth of large employment sectors; protect and provide readily available economic development land to meet the needs for jobs; and enable infill and redevelopment that creates jobs where people live.

Similarly, Goal 2 of Theme C, Creating Jobs and Prosperity, similarly recommends enhancing "our ability to recruit and retain a talented, creative workforce by establishing



opportunities that embrace diversity with inclusion in our community.” To do this, Lexington must have affordable day care located close to residential areas, and/or along arterial traffic lines between residential areas and where the “jobs” are located.

Goal 1 of Theme E, Maintaining a Balance between Planning for Urban Uses and Safeguarding Rural Land, emphasizes the continued importance of development inside of the Urban Service Area (USA). Its objectives are to:

- a. Continue to monitor the absorption of vacant and underutilized land within the Urban Service Area.
- b. Encourage compact, contiguous, and/or mixed-use sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth needs.

Identified strategies include allowing for “increased density and affordable housing in appropriate locations;” and “mixed use or higher density to achieve critical mass of residential to attract business for daily needs.” *See* 2013 Comprehensive Plan, p. 100-101 “Strategies.”

With respect to single parcels (less than 2 acres), the 2013 Comprehensive Plan suggests:

**Single Parcel** - Single parcel projects include infill or redevelopment of a vacant or underutilized property that fills in the gaps in an existing neighborhood. An example of this type of infill would be single-family housing. For larger lots this type of infill might include duplexes, townhouses or condominiums that may or may not require consolidation of parcels. Single parcel infill development may include parcels from under one acre to larger parcels up to about two acres.

It is important that single parcels of infill respect the context and character of the neighborhood, while adding to the densification of the area. Small scale/parcel infill can be an avenue for affordable housing options and can take advantage of existing public services such as schools, open space, and other infrastructure (public utilities).

Further, to promote infill, the 2013 Comprehensive Plan recommends “Improv[ing] regulations to enhance infill opportunities.” *See* 2013 Comprehensive Plan, p. 103 “Recommendations.”

While the Property is currently zoned R-1B, permitting the use of a church since at least 1965), it will no longer be used for this purpose.

Thus, absorbing vacant and underutilized land within the Urban Services Areas is consistent with the 2013 Comprehensive Plan.



D. Adjacent Land Use

1. Attached Property Map

The attached Property Map depicts zone classifications within the notification area (500 feet). As noted below, within this area are multiple zone classifications, including an R-3 zone, and the requested zone change and conditional use are consistent with rezoning the Property.

Specifically, within the notification area, there is R-1B (south and east), I-1 (south), R-1T (north and west), and R-3 (north).

2. Adjacent property to the South and East is zoned R-1B.

As noted above, the property to the immediate south and east of the Property (owned by Kentucky Utilities and operated as a service location) is already zoned R-1B. As noted, this zone is not appropriate for the proposed use of the Property.

3. Adjacent properties to the North and West are zoned R-1C.

The Property is bounded on the North by single family residential developments on Stonegate Way, and across Stone Road (Severn Way, Westfield Way), which are zoned R-1C. The R-1C zone, like the R-1B zone, only permits a Child Care Center as an accessory use to a church. (See LFUCG Zoning Ordinance, Article 8-7, referring to Article 8-5).

4. Other properties in the notification area zoned R-3, R-1T, and I-1.

Directly North of Stonegate Way (off of Pasadena) within the notification area (500 feet) are two additional zones, Longleaf Place (R-3) and Longleaf Lane (R-1T).

Additionally, a small section of a property to the south within the 500 foot notification area is zoned I-1. This zone would not be a compatible.

Thus, the requested zone change and conditional use are consistent with rezoning the Property to R-3.

The 2007 Comprehensive Plan Land Use Map (which the 2013 Comprehensive Plan did not include), notes that the surrounding areas to the north and west are appropriate for residential and to the south is appropriate for industrial.

Thus, the Property is surrounded by different zoning classifications, one of which (Longleaf) is the same as the requested change, one of which (West) is even more density-permissive than the R-3 sought, and two of which (South and North) are consistent with the zone change sought now. Further, a part of the Property is already zoned R-3.



E. The Proposal

As noted, the zone change request seeks to rezone the property from R-1B to R-3, and for a conditional use of a Child Care Center on the Property.

1. R-1B zoning promotes better utilization.

The Property, being nearly 1 acre, is currently underutilized. By rezoning the Property, it prepares it, or a portion of it, for potential development, which satisfies multiple of the Themes from the 2013 Comprehensive Plan. It brings the Property more into conformance with the surrounding neighborhoods to the north and west.

2. R-3 zoning promotes infill.

Further, the rezoning promotes infill opportunities. The A-U zone severely limits the use of the Property, and by rezoning the Property to R-3, it will promote infill opportunities on it.

3. R-3 zoning promotes other Goals and Objectives.

Further, the continued use of the Property as a Child Care Center promotes other Goals and Objectives of the 2013 Comprehensive Plan, including:

- Providing affordable child care for nearby residential developments and neighborhoods;
- Being centrally located to major arterial roadways (Nicholasville Road, Harrodsburg Road, Clays Mills and);
- Being a very short distance from New Circle Road; and
- Continuing to provide job opportunities adjacent to, or near, multiple residential developments and neighborhoods.

F. Conclusion

Accordingly, we request rezoning of the Property from R-1B to R-3, and for a conditional use for the following reasons:

1. The Property and its features are better suited for R-3 zoning, as opposed to its current R-1B zoning
2. The rezoning will bring the Property into compliance with the 2013 Comprehensive Plan and 2007 Comprehensive Plan Land Use Map recommendations;
3. The Rezoning and Conditional Use will satisfy the 2013 Comprehensive Plan Goals and Objectives;
4. The Rezoning is consistent with the existing zoning for adjacent land use; and



5. The Conditional Use is consistent with the current accessory, conditional use of the Property.

## II. Conditional Use

### A. Request for Conditional Use

Next, Applicant and Owners seek approval of a conditional use of a Child Care Center, as defined in the LFUCG Zoning Ordinance, on the Property. Specifically, a Child Care Center is a permitted conditional use in the R-3:

Article 8-12(d). Kindergartens, nursery schools and child care centers for four (4) or more children when accessory to a church or school, as permitted herein. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.

### A. Conditional Use Permit and Zone Change can be heard together.

Article 6-4(c) of the Zoning Ordinance provides:

6-4(c) CONDITIONAL USES AND VARIANCES ALLOWED AT THE TIME OF ZONING - The Planning Commission may hear and act upon requested conditional uses and variances associated with a zone change. If the Planning Commission should choose to hear a conditional use or variance request, the Planning Commission shall have all of the powers and responsibilities of the Board of Adjustment, as defined in Articles 7-6(a) and 7-6(b) of the Zoning Ordinance. All conditional use and variance applications shall be acted upon by the Planning Commission within ninety (90) days from the date of the application, unless postponed further by the applicant.

*See, e.g.,* KRS 100.203.

“Conditional uses” are generally “uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met.” *See, e.g.,* KRS § 100.237. As noted above, the Planning Commission can hear a request for a conditional use permit contemporaneously with a zone change request (although normally such requests are within the purview of the Board of Adjustment). In considering such conditional uses, the Commission:

- (1) .... may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that



one (1) or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

KRS § 100.237(1).

B. Conditional Use Requested is the same as currently permitted Conditional Use.

If the rezoning to R-3 is granted, the following conditional use will continue to be permitted under Article 8-12(d):

5. Kindergartens, nursery schools, and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.

*In other words, the conditional use permit sought with the rezoning of the Property, seeks to continue the same conditional use that the Property and the Applicant currently enjoys.*

C. Definition of "Child Care Center."

A "Child Care Center" is

Any facility which provides full or part-time care, other than family child care, day or night, to children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the operator, as regulated by the Commonwealth of Kentucky.

See LFUCG Zoning Ordinance, Article 1, General Provisions and Definitions.

D. Analysis.

The Applicant seeks a conditional use permit, allowing a Child Care Center once the Property is rezoned to R-3 for the following reasons:

1. A Child Care Center is a permitted accessory, conditional use in the R-1B Zone currently, and R-3 Zone when rezoned.



2. A Child Care Center will not harm the public health, safety or welfare, and will not impair the integrity and character of this zone or adjoining zones because: (i) it is a use that the Property is currently enjoying, (ii) it is a use that the Property has enjoyed for a number of years, and (iii) it is a use that would continue into the future.
3. The conditional use is consistent with the 2013 Comprehensive Plan. This includes:
  - a. Identify areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features whenever possible (Goal 2);
  - b. Increasing small business development (Objective C-2a); and
  - c. Providing opportunities for quality of life for young professionals by providing day care (for customers) and work (for employees) (Objective C-2d).

*See original submittal for further discussion of the objectives and goals of the Comprehensive plan and how the Conditional Use will promote those.*

4. All public facilities which are needed are available and adequate to the site. All needed public utilities are available and already present at the site. Police and fire protection are available, and located close to the Property.
5. It allows the Property to be used in the same manner it is currently being used. Thus, it allows the property to be rezoned to better reflect the neighboring properties zone classification and Comprehensive Plan's goals, while allowing the same use that the Property and the local neighborhoods enjoy.

E. Conclusion

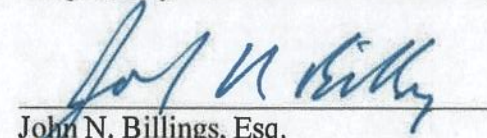
Accordingly, for the reasons previously submitted and above, we request rezoning of the Property from R-1B to R-3, and for a conditional use for the following reasons:

1. The Property and its features are better suited for R-3 zoning, as opposed to its current A-U zoning;
2. The rezoning will bring the Property into compliance with the 2013 Comprehensive Plan and 2007 Comprehensive Plan Land Use Map recommendations;
3. The Rezoning and Conditional Use will satisfy the 2013 Comprehensive Plan Goals and Objectives;
4. The Rezoning is consistent with the existing zoning for adjacent land use; and
5. The Conditional Use is consistent with the current accessory, conditional use of the Property.



Thank you for your consideration of this zone change request and conditional use permit application.

Respectfully submitted on behalf of Applicant:

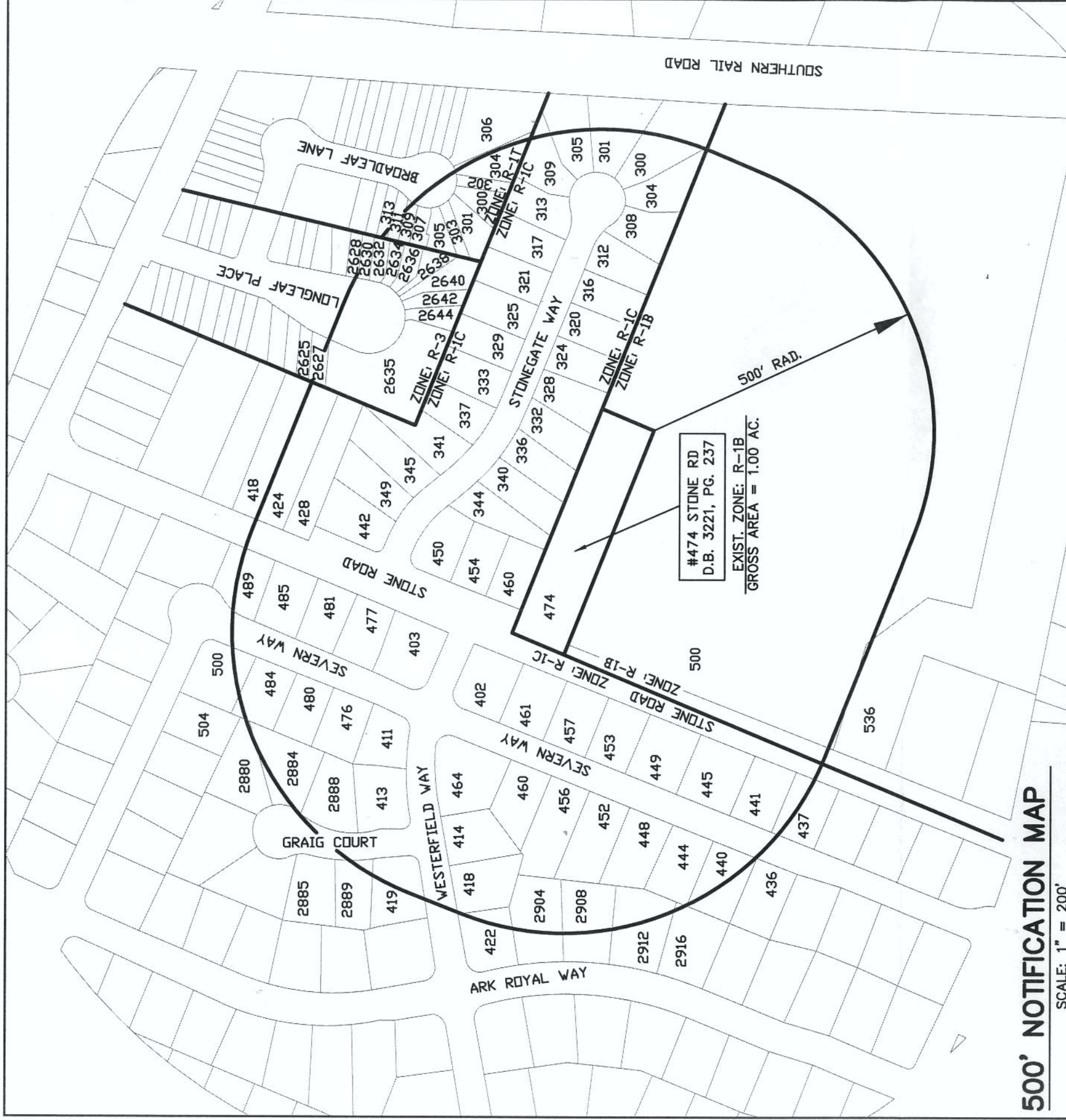


John N. Billings, Esq.  
Billings Law Firm, PLLC  
111 Church Street, Suite 200  
Lexington, KY 40507  
[nbillings@blfky.com](mailto:nbillings@blfky.com)  
(o) 859-225-5240

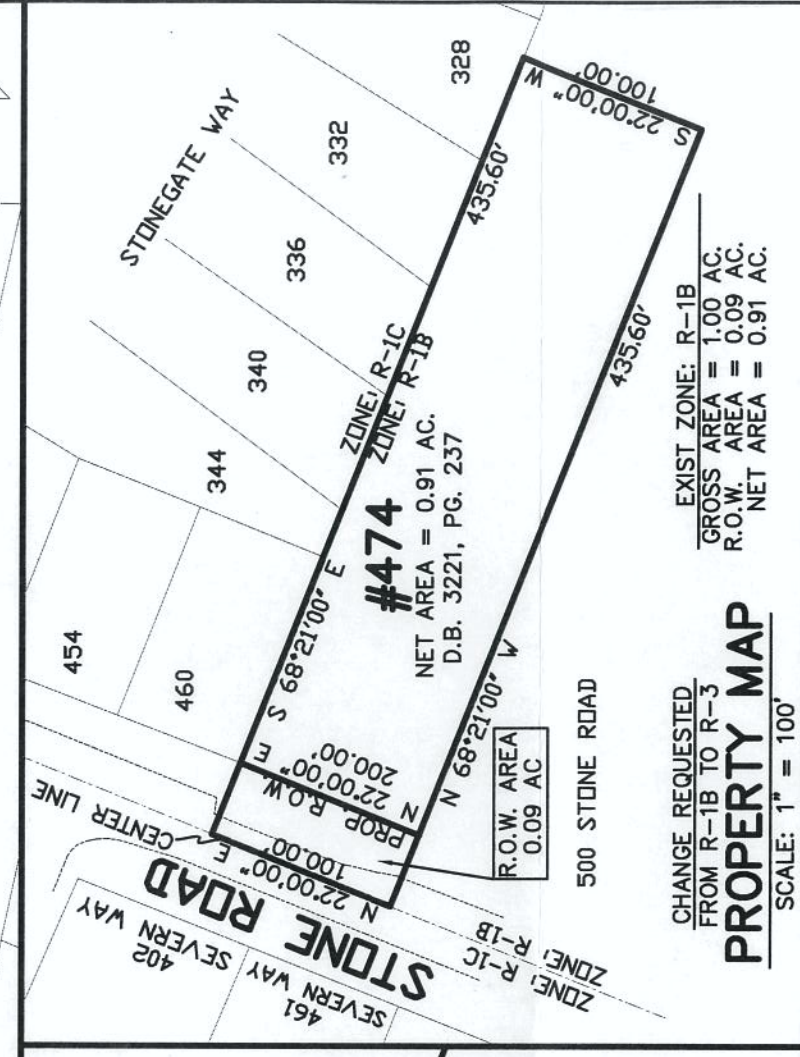
and

Rick Moore  
Moore Surveying  
107 COLLINS DRIVE  
Nicholasville, KY 40356  
[mooresurveying@windstream.net](mailto:mooresurveying@windstream.net)  
(859) 887-3007

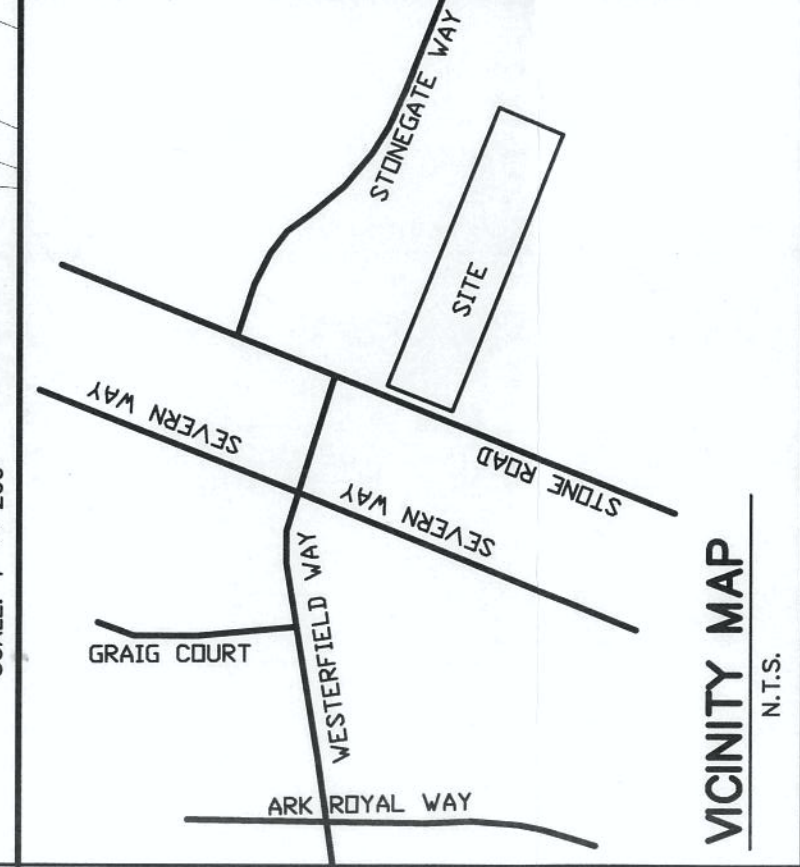




**500' NOTIFICATION MAP**  
SCALE: 1" = 200'



**PROPERTY MAP**  
SCALE: 1" = 100'



**VICINITY MAP**  
N.T.S.

**CHANGE REQUESTED**  
FROM R-1B TO R-3

EXIST. ZONE: R-1B  
GROSS AREA = 1.00 AC.  
R.O.W. AREA = 0.09 AC.  
NET AREA = 0.91 AC.

EXIST. ZONE: R-1B  
GROSS AREA = 1.00 AC.  
R.O.W. AREA = 0.09 AC.  
NET AREA = 0.91 AC.



OWNER:  
**FRANCIS SAID**  
**PROPERTY**  
4809 HEMPSTEAD DRIVE  
LEXINGTON, FAYETTE COUNTY KENTUCKY

APPLICANT: **LITTLE BEGINNERS CHILD DEVELOPMENT CENTER**  
3236 YELLOW STONE PKWY  
LEXINGTON, FAYETTE COUNTY KENTUCKY



**MSC**  
**Moore Surveying**  
**Company, PLLC**  
107 COLLINS DRIVE  
NICHOLASVILLE, KY. 40356  
PH. (859) 887-3007 CELL (859) 621-9757  
EMAIL: MOORESURVEYING@WINDSTREAM.NET