

MAR 2015-1

Date Received 1/5/15

Pre-Application Date 12/9/14

Filing Fee \$ 570.00

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

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

APPLICANT: M.I.A. Brookhaven, LLC 1056 Wellington Way, Ste 200, Lexington, KY 40513; (859)252-5993
OWNER: M.I.A. Brookhaven, LLC 1056 Wellington Way, Ste 200, Lexington, KY 40513; (859)252-5993
ATTORNEY: Christine N. Westover, Esq; Preston C. Worley, Esq. McBrayer, McGinnis, Leslie & Kirkland, PLLC 201 E. Main St., Ste 900, Lexington, KY 40507; (859)231-8780

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

2434 Nicholasville Road, and 2450 Nicholasville Road

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	Vacant	B-3	Hotel, Restaurant, Retail	5.6686	6.8980

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Professional Office/Automobile Service Station	P-1 / B-1
East	Multifamily Residential	R-4
South	Multifamily Residential/Professional Office	R-4 / P-1
West	Restaurant, Retail, Office	B-1

5. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved? YES NO

b. Have any such dwelling units been present on the subject property in the past 12 months? YES NO

c. Are these units currently occupied by households earning under 40 % of the median income?
 If yes, how many units? YES NO
 If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing. _____ 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 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.) *see attached

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 Christine Westover attorney in fact for DATE 1/5/15
 and
 OWNER MIA Brookhaven LLC 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
PRESTON CLARK WORLEY
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LEXINGTON, KENTUCKY 40507
(859) 231-8780 EXT. 137
FAX: (859) 253-0706

January 5, 2015

Mr. Mike Owens, Chairman
Lexington-Fayette Urban County Planning Commission
200 E. Main Street
Lexington, Kentucky 40507

RE: Zone Change from B-1 to B-3
2434 and 2450 Nicholasville Road

Dear Chairman Owens:

We represent Royce Pulliam, whose company, MIA Brookhaven, LLC ("Brookhaven"), owns commercial property in the Nicholasville Road corridor. Our application is to rezone the above referenced properties from their current B-1 category to the B-3 zone in order to redevelop this vacant land with a project anchored by an Aloft Hotel.

The parcel we propose to rezone is the site of a former "big box" shopping center that has now been demolished. Brookhaven also owns the adjoining B-1 zoned lot at 100 Malabu Drive, which is the site of a Rite Aid. The two lots that are the subject of the rezoning application are vacant and underutilized parcels in need of a new and creative development. Brookhaven plans to design and build a destination style hotel with interconnected walkways to the other restaurants and retail shops within the project area, and will tie in existing sidewalks along Malabu and Nicholasville Road. The Aloft Hotel is a unique yet affordable boutique style hotel that will anchor the project. The project will include substantial landscaping that will create a well-defined sense of place as well as provide a buffer between it and the adjoining residential properties.

We believe this project will be a great success and an asset to the community. This redevelopment will expand job opportunities, provide a better use of underperforming and vacant urban land, and will support the key industries and job providers in Lexington Fayette County. Our justification for the rezoning is agreement with the Comprehensive Plan ("Comp Plan"), based on the following:

- Redevelopment in Urban Service Area ("USA")

As identified in Theme A of the Comp Plan, Goal 2 provides for the support of infill and redevelopment throughout the USA as a strategic component of growth. Objective (a) provides for identifying areas of opportunity for redevelopment and adaptive reuse. This project will invigorate a large underperforming piece of land through redevelopment within the USA. By doing so it will not only improve urban land and preserve the intent of the USA, but it will in turn protect rural land outside the USA.

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- Jobs

As identified in Theme C of the Comp Plan, creating jobs and prosperity is a priority for planning strategy in Lexington. The hotel and other businesses will provide jobs both in the construction phase and in their long term operation. According to the Comp Plan, jobs in the arts, entertainment, recreation, accommodation, and food service categories grew over 26% from 2000 to 2011. As Lexington continues to grow and promote its healthcare, equine, and tourism industries, such jobs will remain in high demand, as the need and demand for quality and affordable lodging for visitors continues to rise.

- Live Where You Work

Just as this project will promote job growth, it will also provide “live where you work” opportunities. According to the Comp Plan, p. 72, “Land use regulations should enable opportunities to live where you work.” This project is located within walking distance of several residential areas, including apartment complexes, in the Nicholasville Road corridor and the Andale and Brookhaven neighborhoods. Many of the jobs created by the hotel, retail, and dining establishments within the project will likely be sought by the residents of those neighborhoods.

- Supporting Key Industries and Job Providers

Theme D, Goal 2, Objective (b) of the Comp Plan recommends collaboration with educational and healthcare entities to meet the needs of Lexington’s residents and visitors. Furthermore, the “action approaches” for the Destination 2040 community elements cited in the Comp Plan, recommend “recognizing and expanding the University of Kentucky’s research and development as the primary driver for business and job expansion in the community”. As a regional healthcare provider Lexington’s hospitals serve the healthcare needs of individuals all throughout Kentucky and its surrounding states. There are currently over 2500 hospital beds in Lexington, over half of which are housed in facilities within just a few miles from the proposed project. As the nature of healthcare continues to change, not only do families and friends of patients require quality lodging near healthcare providers, but also the patients themselves need lodging while receiving outpatient treatment, sometimes over several days at a time. A new hotel with adjoining walkable shopping and dining options will provide this needed service that will support Lexington’s healthcare industry.

Similarly, a new hotel and related retail and restaurants will support Lexington’s tourism and signature horse industry. As stated in Chapter 5 of the Comp Plan, p. 60, “The value of the horse industry is not only in sales, but also because it brings thousands of tourists who visit horse farms, shows, and races, and bolsters the retail trade and service of the area.” Lexington continues to attract the world’s best equine competitions, such as the FEI World Equestrian Games and the Breeder’s Cup. These events, combined with the ongoing horse related activities at Keene land and the Red Mile, will continue to attract new visitors to Lexington. The need for quality lodging, retail and dining will be served by the proposed project and will support the tourism and equine industry.

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- Environmental Responsibility

The proposed improvements will create an environmentally sustainable project. It will facilitate the use of transportation alternatives to the automobile. The project is located along a major public transit line. Bicycle racks will be incorporated into the project to encourage bicycle transportation, and the site will feature internal pedestrian connectivity as well as connection to existing sidewalks along Malabu and Nicholasville Road. . The proximity of the site to the commercial corridor on Nicholasville Road and the University of Kentucky will encourage walking and the use of bikes.

According to the Comp Plan, p. 76, “Walkable and bicycle-friendly communities are routinely recognized and marketed as communities with a high quality of life that attract and retain businesses, professionals, and tourists,” and “Place-making and walkability are important to the success of Lexington and its neighborhoods.” p. 39.

- Accessibility and Transportation

As stated above, the proposed project will be located on major transit line and be walkable from and to nearby neighborhoods, businesses, and the University. Moreover, it will provide an invigorated bookend to a major local connector street, Malabu Drive, which runs from Tats Creek Road to Nicholasville Road. Finally, the number of new vehicle trips generated by the project is insubstantial when the number of vehicle trips based on the previously existing development is factored into the calculation, which means that the traffic from this development will not have a detrimental impact on the Nicholasville Road corridor.

- Conclusion

Our proposal fulfills Theme A Goal 2, to support redevelopment of urban land; Theme B Goal 2, to reduce Lexington’s carbon footprint; Theme B Goal 3, to support green infrastructure; Theme C Goal 1, to support creation of a variety of jobs; Theme C Goal 2, to encourage the entrepreneurial spirit and embrace a diverse and inclusive community; Theme D Goal 1, to achieve a comprehensive transportation system; Theme D Goal 2, to provide for accessible community facilities and services and to collaborate with and support educational and healthcare entities to meet the needs of Lexington’s residents and visitors; Theme D Goal 3, to protect Lexington’s unique cultural and natural landscapes; and Theme E Goal 1, to uphold the Urban Services Area concept, among other elements of the Comprehensive Plan, many of which are discussed in detail above.

As so aptly stated on page 98 of the Comp Plan, urban redevelopment requires giving “developers more options to make development more financially feasible.” Further, the 2013 Comp Plan “dispensed with the parcel-based future land use map in hopes of encouraging creativity in new and redevelopment proposals.” Our project and requested zone change will accomplish just that.

The developer proposes conditional zoning restrictions in order to ensure that future development will be compatible with the character of the adjoining area by prohibiting certain uses that would be too intensive or inappropriate at this location. Accordingly, we propose that the following uses be prohibited:

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Principal uses listed under Sec. 8-20(b):

1. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
8. Garden Centers
9. Kennels, animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be a least 100 feet from any residential zone.
16. Carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time, parking, access or in other ways to protect public health, safety or welfare; or deny such if public health, safety, or welfare are adversely affected. A carnival may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
18. Taxidermy establishments.
26. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, provided that none shall be located within a 500-foot radius of any agricultural or residential zone, any elementary or secondary school, any park attended by persons under 18 years of age, or within a 1,000-foot radius of any other similarly regulated adult business.
28. Retail sale of automotive parts with storage and distribution of inventory to other local establishments under the same ownership, when such use is at least 200 feet from a residential zone.
29. Automobile and vehicle refueling stations provided such uses conform to all requirements of Article 16.

Conditional uses listed under Sec. 8-20(d):

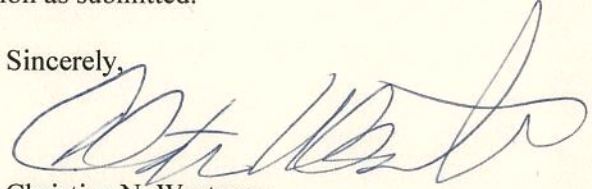
All conditional uses listed in Section 8-20(d) are prohibited except for:

9. Churches and Sunday schools.
11. Temporary structures designed for use or occupancy for 61 to 180 days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

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Accordingly we request approval of our application as submitted.

Sincerely,



Christine N. Westover
Preston C. Worley

CNW/klm

PROPERTY DESCRIPTION

Lots 1 and 1D of Brookhaven Subdivision, Block "A", Unit 1-F
as recorded in
Plat Cabinet N, Slide 30
in the office of the Fayette County Clerk

Zone Change from B-1 to B-3

for
M.I.A Brookhaven, LLC
2434 and 2450 Nicholasville Road (US 27)
Lexington, Fayette County, Kentucky

Being a parcel of land bounded by Surfside Drive, Nicholasville Road (US 27) and Malabu Drive in Lexington, Fayette County, Kentucky and further described as:

BEGINNING at the intersection of the centerlines of Surfside Drive and Nicholasville Road (US 27); thence with the centerline of said Nicholasville Road, North 15°12'00" East a distance of 221.08 feet to a point; thence leaving the centerline and through the Nicholasville Road right-of-way South 67°31'00" East a distance of 49.40 feet to a point, said point being the southwest corner of Lot 1A of the Brookhaven Subdivision (Plat Cabinet N, Slide 30);thence with the line of said Lot 1A for five calls:

South 67°31'00" East a distance of 22.89 feet to a point;

thence with a curve turning to the right with a radius of 20.00 feet, with an arc length of 20.94 feet, with a chord bearing of South 37°31'00" East, and with a chord length of 20.00 feet to a point;

thence with a reverse curve turning to the left with a radius of 20.00 feet, with an arc length of 20.94 feet, with a chord bearing of South 37°31'00" East, and with a chord length of 20.00 feet to a point;

thence South 67°31'00" East a distance of 147.58 feet to a point;

thence North 22°29'00" East a distance of 250.69 feet to a point, said point being the northeast corner of said Lot 1A and being in the south right of way of Malabu Drive;

thence through the Malabu Drive right of way, North 22°29'00" East a distance of 30.02 feet to a point in the centerline of Malabu Drive; thence with the centerline of said Malabu Drive for three calls:

South 65°28'00" East a distance of 183.66 feet to a point;

thence with a curve turning to the right with a radius of 573.00 feet, with an arc length of 383.03 feet, with a chord bearing of South 46°19'00" East, and with a chord length of 375.94 feet to a point;

thence South 27°10'00" East a distance of 145.32 feet to a point;

thence leaving the centerline of Malabu Drive and through the Malabu Drive right-of-way, South 63°04'00" West a distance of 30.00 feet to a point, said point being in the south right-of-way of Malabu Drive, and said point being the north corner of Lot 1B of Brookhaven Subdivision (Plat Cabinet D, Slide 546); thence continuing with the west line of said Lot 1B for two calls:

South 63°04'00" West a distance of 127.15 feet to a point;

thence South 22°11'00" West a distance of 94.06 feet to a point, said point being the southwest corner of said Lot 1B and said point being in the north right-of-way of Surfside Drive;

thence through the Surfside Drive right-of-way, South 22°11'00" West a distance of 30.00

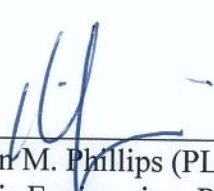
feet to a point in the centerline of Surfside Drive; thence with the centerline of said Surfside Drive, North 67°31'00" West a distance of 769.70 feet to a point at the intersection of the centerlines of Surfside Drive and Nicholasville Road;

which is the **Point of Beginning**, having a gross area of 300,476.6 square feet, or 6.8980 acres and a net area of 246,926.1 Sq. Feet, or 5.6686 acres.

The bearings used in the description above are based on the north right-of-way line of Surfside Drive (North 67° 31' West) as shown on record plat "Amended Final Record Plat of Lot 1, Block "A" of Brookhaven Subdivision, Unit 1-F", recorded in Plat Cabinet "D", Slide 546, in the office of the Fayette County Clerk. This bearing base is the same as used in the "Consolidation and Corrected Amended Easement Minor Plat of Lots 1, 1A, 1C, 1D of the Brookhaven Subdivision Block "A", Unit 1-F" as it is recorded in Plat Cabinet "N", Slide 30, in the office of the Fayette County Clerk.

The description above being prepared by Kevin Phillips (PLS 3350), of Endris Engineering, 771 Enterprise Drive, Lexington, Kentucky.





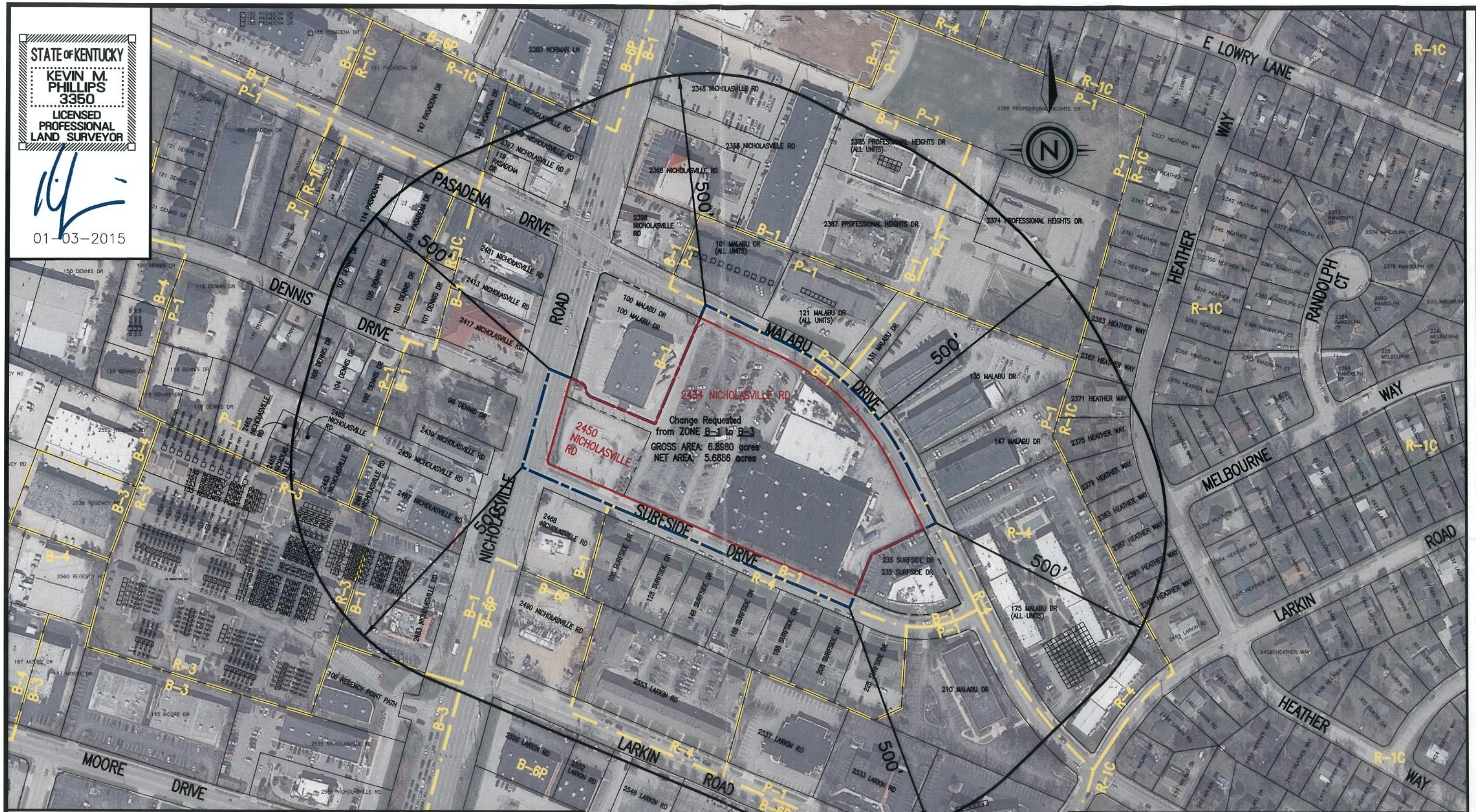
Kevin M. Phillips (PLS 3350)
Endris Engineering, PSC
771 Enterprise Drive
Lexington, KY 40510

12-30-2014
Date

STATE OF KENTUCKY
 KEVIN M. PHILLIPS
 3350
 LICENSED PROFESSIONAL LAND SURVEYOR

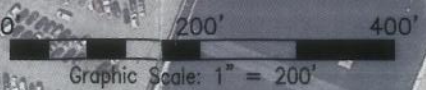


01-03-2015



Change Requested
 from ZONE B-1 to B-3
 GROSS AREA: 6.8980 acres
 NET AREA: 5.6886 acres

NOTIFICATION AREA MAP



PREPARED BY:



WHEAT & LADENBURGER
 212 NORTH UPPER STREET, LEXINGTON, KENTUCKY

FROM	TO	NET	GROSS
B-1	B-3	5.6886 Acres	6.8980 Acres

TITLE: Lots 1 and 1D of Brookhaven Subdivision
 Block A, Unit I-F (Plat Cabinet N, Slide 30)
 ADDRESS: 2434 & 2450 Nicholasville Rd - Lexington - KY
 APPLICANT: M.I.A Brookhaven, LLC
 OWNER: M.I.A Brookhaven, LLC
 DATE FILED OR AMENDED: January 5, 2015