

Statement of Justification

The applicants, David and Josophia Harl, are requesting a zone change from the Wholesale and Warehouse Business (B-4) zone to the Planned Neighborhood Residential (R-3) zone for approximately one-third acre of land at 1251 Red Mile Road. We are also requesting a conditional use permit for a fraternity and dimensional variances relating to setbacks of the existing building.

Mr. and Mrs. Harl purchased this vacant building four months ago, in October, 2016. Although the property is zoned B-4, it has the appearance of a multi-family residential building. It has an attractive brick exterior, with dormers.

As mentioned above, the building was vacant when purchased by Mr. and Mrs. Harl. It was originally constructed in 1985, and used by White Construction Company. Although it may have once been used as an office for a construction company, it is unsuited for most B-4 uses. With only residential type doors, it has extremely limited usefulness for storage or wholesaling activities. It is totally unsuited for other uses allowed in B-4 such as truck or auto sales or repair, service stations or sale of building materials. Thus, the existing B-4 zoning is inappropriate for this small piece of property.

R-3 zoning is, however, fully appropriate for the property. This is an adaptive reuse of the existing building. The existing building will remain as-is, with only interior modifications. Adequate parking for our proposed use is available onsite, and it will supply additional housing within walking distance of the University of Kentucky. It will be consistent with the student-oriented housing already located on Red Mile Road, to the west of this property. These include Red Mile Village, University Court, Stable View Apartments, Campus Court and Red Mile Place. All of those student-oriented housing complexes are located a greater distance from the University than is this property. The property is bordered on the east by Red Mile Road, on the north by the national headquarters of the Phi Gamma Delta fraternity, which includes a large yard adjacent to this property, to the west and partially to the south by the Avis car sales facility, and partially to the south by a single-family home (located in the B-4 zone) on Uhlan Court.

In addition, this proposal is in agreement with the community's Comprehensive Plan. In 1990, the community studied this changing area in the South Broadway Corridor Plan, which was an amendment to the 1988 Comprehensive Plan. At that time, this property was placed in the RO (retail office mixed use area). Residential use was encouraged in that category. "While the primary intent is to encourage a retail and office mix, with no restrictions on percentage of mix, residential land uses should be allowed... Other than appropriate setbacks and constraints regarding all new structures, residential uses are not to be restricted as to location or floor level." This proposal is also in agreement with the 2013 Comprehensive Plan. Goal A.1. calls for expansion of housing choices. The proposed use, a fraternity, will allow housing for up to 25 students. Objective A.1.b. calls for housing that addresses the market needs for all Lexington-

Fayette County's residents. Goal A.2. calls for supportive infill and redevelopment throughout the Urban Service Area as a strategic component of growth. This proposal will allow an adaptive reuse of an existing structure. Objective A.2.a. calls for supporting infill and redevelopment that respects the context and design features of the area. (This proposal will result in no exterior change to the existing building). Objective E.1.b. calls for compact, contiguous and/or mixed-use sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth needs. Goal E.3. calls for maintenance of the boundaries of the Urban Service Area. The Comprehensive Plan also calls for flexibility in housing types, densities and configuration while encouraging quality and variety (Page 98).

Conditional Use

We are also requesting a conditional use permit for a fraternity. The Alpha Sigma Phi Fraternity wishes to establish its University of Kentucky Chapter in this building. The local chapter was reestablished at the University of Kentucky in 2015. Although there are 141 chapters of Alpha Sigma Phi nationwide, there had not been an active chapter at the University for almost 50 years. Alpha Sigma Phi is a recognized University of Kentucky student organization, and abides by all University of Kentucky requirements for fraternities. We anticipate that there will be about 20 members living in the building, although we are asking to have a maximum of 25. The chapter, although established for only 2 years, has become active in philanthropic and service organizations such as the Kentucky Veterans Cemetery North, and Boots in the Bluegrass-USA Cares. A house father or house mother will be on site.

The property and existing building are ideally suited for a fraternity use. As mentioned above, it is close to the University of Kentucky campus. The size and configuration of the building is ideal for residential/fraternity use. The property to the immediate north is owned and operated as the national headquarters of another fraternity organization. The property borders only one residential use (in the B-4 zone), along a portion of the southern property line. However, there are no doors or windows in our building along the entire southern boundary of the structure. Thus, we are requesting your approval of the conditional use for the following reasons:

1. A fraternity is a permitted conditional use in the R-3 zone.
2. The proposed use as a fraternity will not harm the public health, safety or welfare and will not impair the integrity or character of the zone in which it is located or adjoining zones because this property is located near the University of Kentucky campus, downtown, and other institutional uses including the national headquarters of another fraternity and the Red Mile. The fraternity will utilize an existing building and parking lot with no exterior change to the building. This will be an excellent adaptive re-use of the building. This property is bordered at only one location by a residential use which is in the B-4 zone, and there are no windows or openings

facing that side of the property. A house mother or house father will be on site, and the fraternity will observe all University regulations regarding fraternities.

3. All public facilities and services are existing and will be adequate to serve the proposed use. The existing building, driveway and parking will remain. Roads, storm and sanitary sewage facilities and utilities are already available and adequate for the site. Police and fire protection are excellent, as this property is located within the Urban Service Area of Lexington-Fayette County.

Variiances

The existing development of this property requires us to request some variances to setback and landscaping requirements for the R-3 zone.

Please note that this property is entirely surrounded by property which is zoned B-3, B-4 or the five-lane Red Mile Road. We are requesting a variance to the front yard setback of 20 feet along Red Mile Road, and along the stubbed portion of Uhlan Court.

There is a jog in the right-of-way of Red Mile Road along this property. The right-of-way is 10 feet deeper into this property than it is on adjoining properties. Thus, while the wall of the building which faces Red Mile Road is four feet from the property line, it is over 20 feet from the closest edge of the sidewalk. So, the building will be 20 feet from the edge of the sidewalk, but it does not meet the 20 foot required setback from the existing property line.

Similarly, Uhlan Court stubs into this property in the back. If Uhlan Court were to be extended, it would conflict with the building itself. The staff has informed us that we are technically required to have a 20 foot setback from the stub of Uhlan Court. Because the building already exists along with the parking, we are requesting a variance from 20 feet to 4 feet to meet the existing setback of the building and parking area.

We are also requesting a variance of the 15 foot landscape easement required from a residential property to a business property. Normally, this landscape easement would be provided by the business property which adjoins us. However, because the subject property is being rezoned, it is possible to interpret the zoning ordinance that the subject property must provide that easement. We are requesting an elimination of the required landscape easement so that we can retain the existing building, along with existing landscaping, which does not meet the 15 foot requirement. Please note that there is an existing 6 foot privacy fence along the west and southern boundaries of the existing paved area. Also, as mentioned above, the building is located 4-5 feet from the southern property line but has no doors or openings on that side. On the north, the property is adjacent to a line of trees and the well-landscaped property of the national headquarters of Phi Gamma Delta fraternity.

Thus, we are asking your approval of these dimensional variances for the following reasons:

1. Granting these variances will not adversely affect the public health, safety or welfare and will not alter the character of the general vicinity and will not cause a hazard or nuisance to the public because the existing building, driveway and parking area will remain as it has been for the last 32 years. This use is an adaptive re-use of the existing building on the property.

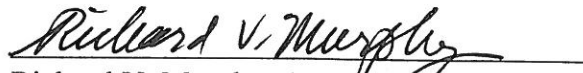
2. Granting these variances will not allow an unreasonable circumvention of the requirements of the zoning ordinance because the property has 6-foot privacy fences on two sides, along with a building wall with no windows or openings. On the third side (north) it borders a treed and landscaped area belonging to the headquarters of a national fraternity. On the fourth side is the five-lane Red Mile Road. The building will still be 20 feet back from the nearest edge of the sidewalk of Red Mile Road.

3. The special circumstances which apply to this property and which do not generally apply to the land in the general vicinity or in the same zone are that the applicant wishes to retain the building which can be adapted for residential use. There will be no additional buildings or paving on the site.

4. Strict application of the regulations of the zoning ordinance would deprive the applicant of the reasonable use of its land or create an unnecessary hardship because it would require demolition of part or all of the existing building and improvements to the site. The existing building improvements are well-built and readily adaptable for residential use.

5. The circumstances surrounding the requested variance are not the result of the actions of this applicant. The residential-style B-4 building was constructed on this property in 1985. These applicants purchased the property in 2016.

Thank you for your consideration of this application.


Richard V. Murphy, Attorney for
David and Josophia Harl