

AN ORDINANCE CHANGING THE ZONE FROM A HIGH DENSITY APARTMENT (R-4) ZONE TO A HIGH RISE APARTMENT (R-5) ZONE FOR 0.93 NET (1.02 GROSS) ACRES, FOR PROPERTY LOCATED AT 238-248 E. MAXWELL STREET. (KAPPA KAPPA GAMMA, INC; COUNCIL DISTRICT 3).

WHEREAS, at a Public Hearing held on February 23, 2017, a petition for a zoning ordinance map amendment for property located at 238-248 E. Maxwell Street from a High Density Apartment (R-4) zone to a High Rise Apartment (R-5) zone, for 0.93 net (1.02 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 8-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

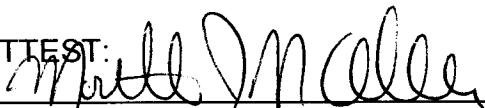
Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 238-248 E. Maxwell Street from a High Density Apartment (R-4) zone to a High Rise Apartment (R-5) zone, for 0.93 net (1.02 gross) acres, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 3 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: Apr 11 13, 2017

ATTEST:


CLERK OF URBAN COUNTY COUNCIL

Published: Apr 11 20, 2017-1t

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MAYOR

238-248 East Maxwell Street
Kappa Kappa Gamma, Inc.
Zone Change from R-4 to R-5
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED ON THE WEST SIDE OF EAST MAXWELL STREET, APPROXIMATELY 400-FT NORTHWEST OF THE EAST MAXWELL STREET-ROSE STREET INTERSECTION IN CENTRAL LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT lying in the centerline of East Maxwell Street, approximately 65-ft southeast of the intersection of Stone Avenue and East Maxwell Street; thence leaving the said centerline South 48 Degrees 25 Minutes 49 Seconds West a distance of 276.90 feet to a point, said point being the southwest property corner of Kappa Kappa Gamma, Inc.; thence with the western property line North 41 Degrees 34 Minutes 11 Seconds West a distance of 160.00 feet to Kappa Kappa Gamma's northwest property corner; thence with Kappa Kappa Gamma's northern property line North 48 Degrees 25 Minutes 49 Seconds East a distance of 276.90 feet to a point in the centerline East Maxwell Street; thence with the said centerline South 41 Degrees 34 Minutes 11 Seconds East a distance of 160.00 feet **TO THE POINT OF BEGINNING.**

The above described parcel contains 1.02 acres.

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Rec'd by Bm
Date: 3-10-17


RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **PLN-MAR-17-00001: KAPPA KAPPA GAMMA, INC.** – a petition for a zone map amendment from a High Density Apartment (R-4) zone to a High Rise Apartment (R-5) zone, for 0.93 net (1.02 gross) acres, for properties located at 238-248 E. Maxwell Street. (Council District 3)

Having considered the above matter on **February 23, 2017**, at a Public Hearing, and having voted **8-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** of this matter for the following reasons:

1. The requested High Rise Apartment (R-5) zone is in agreement with the 2013 Comprehensive Plan and the *Downtown Master Plan*, for the following reasons:
 - a. The subject property is located within the College Town precinct of the Downtown Master Plan. The *Master Plan* encourages increasing residential development (Recommendation #4).
 - b. The *Downtown Master Plan* for the College Town precinct and the E. Maxwell corridor specifically, does not encourage much physical change or standard infill development. The *Master Plan* states that “important to the successful development of the area is the retention of old and historic buildings and the development of housing and retail space that not only increases density, but also responds to the surrounding architectural character.”
 - c. The petitioner’s proposal incorporates both retention of the historic residential structure and increased density for the subject property.
 - d. The Goals and Objectives of the 2013 Comprehensive Plan, specifically within *Theme A: Growing Successful Neighborhoods*, support expanding housing choices to meet the needs of all citizens (Goal #1b.); support infill and redevelopment that respect’s the context and design features of the area (Goal #2a.); and providing well-designed neighborhoods and communities (Goal #3). The E. Maxwell corridor is already overwhelmingly high density residential in character, with many 3-story structures used primarily for student housing. The necessity of the R-5 zone is to facilitate a larger building (with a maximum FAR of 1.3 and a maximum coverage of 35%), but the scale of the building will not be out of character with the surrounding structures in the immediate vicinity, which are 2- and 3-stories in height.
 - e. The Goals and Objectives of the 2013 Comprehensive Plan call for compact, contiguous development to accommodate future growth needs (Theme E, Goal #1b). The increased density desired by the sorority, which necessitated the rezoning request, will allow a greater number of students to live on or near campus, which reduces commuter traffic.
2. This recommendation is made subject to the approval and certification of **PLN-MJDP-17-00003: Kappa Kappa Gamma, Inc.**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission’s approval.

ATTEST: This 10th day of March, 2017.


Secretary, Jim Duncan

WILLIAM WILSON
CHAIR

Note: The corollary development plan, PLN-MJDP-17-00003: KAPPA KAPPA GAMMA, INC. was approved by the Planning Commission on February 23, 2017 and certified on March 9, 2017.

Note: A conditional use for a Sorority house and dimensional variances were approved to reduce the minimum side yard; to increase the maximum height-to-yard ratio; and to increase the maximum parking allowed for this request, by the Planning Commission at this hearing.

K.R.S. 100.211(7) requires that the Council take action on this request by May 25, 2017.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Nick Nickolson, Attorney.**

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (8) Cravens, Drake, Mundy, Owens, Plumlee, Richardson, Smith, and Wilson

NAYS: (0)

ABSENT: (3) Berkley, Brewer, and Penn

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-17-00001** carried.

Enclosures: Application
Plat
Staff Report
Applicable excerpts of minutes of above meeting

MAP AMENDMENT REQUEST (MAR) APPLICATION

1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)

Applicant: KAPPA KAPPA GAMMA, INC., c/o ELIZABETH ROBERTSON, 1602 MEADOWTHORPE AVE, LEXINGTON, KY 40511
Owner(s): KAPPA KAPPA GAMMA, INC., 1602 MEADOWTHORPE AVE, LEXINGTON, KY 40511
Attorney: Nick Nicholson, Stoll Keenon Ogden, PLLC, 300 W Vine Street, #2100, Lexington, KY 40507

2. ADDRESS OF APPLICANT'S PROPERTY

238-248 E MAXWELL ST, LEXINGTON KY

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Zoning	Existing Use	Zoning	Requested Use	Acreage	
				Net	Gross
R-4	Sorority house	R-5	Sorority house	0.93	1.02

4. 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

5. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided)

Roads:	LFUCG
Storm Sewers:	LFUCG
Sanity Sewers:	LFUCG
Refuse Collection:	LFUCG
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





NICK NICHOLSON
DIRECT DIAL: (859) 231-3950
DIRECT FAX: (859) 246-3649
Nick.Nicholson@skofirm.com

300 WEST VINE STREET
SUITE 2100
LEXINGTON, KY 40507-1801
MAIN: (859) 231-3000
FAX: (859) 253-1093

January 3, 2017

Lexington-Fayette Urban County Planning Commission
101 E. Vine Street
Lexington, KY 40507

Re: Zone Change Application for 238 East Maxwell Street

Dear Members of the Planning Commission:

We represent Kappa Kappa Gamma ("Kappa"), the property owner of 238 E. Maxwell Street. On Kappa's behalf, we have filed a zone change application to High Rise Apartment (R-5) Zone from the existing High Density Apartment (R-4) zone to allow for a modern renovation and expansion of the existing sorority house on the 0.93 acre parcel. This request includes a conditional use permit request to expand the existing conditional use for the sorority house on the property and several variances associated with the proposed parking layout and the side yard setback to the northwest.

The rationale behind the zone change request is a result of the floor area ratio limitation in the R-4 zone. The proposed project will replace a previous addition, add a third floor, and expand the existing footprint to the side and rear of the existing structure. The expansion will result in increased square footage from the existing 17,944 square feet to a total of 35,116 in the basement and three above-ground stories. As such, the Floor Area Ratio for the proposal is at 0.826, slightly above the 0.7 maximum in the R-4 zone and well below the 1.3 maximum in the R-5 zone. With this square footage increase, the Kappa Sorority will be able to increase the common area space and the number of dwelling units from 16 to 27 to house 68 of its members. This results in an increased property density from 17.20 to 25.81 units per acre. The original 1920's front portion of the building is being retained in this project, although it is not within a local historic district or on any type of historic registry.

This request is in agreement with the Comprehensive Plan as the proposed project meets several of the Goals and Objectives of the Comprehensive Plan. Specifically, the project is in compliance as it expands housing choices to meet the needs for all of Fayette County's residents (Theme A, Goal #1b); supports infill and redevelopment that respects the area's context and design features (Theme A, Goal #2a); provides well-designed neighborhoods and communities (Theme A, Goal #3); and is developing underutilized properties within the Urban Service Area to encourage compact, contiguous development to accommodate future growth needs (Theme E, Goal #1b). In summary, by increasing density in an appropriate location and manner, this project upholds the Urban Service Area preservation strategy and is appropriate infill in a residential corridor.

Similar to the recent R-5 zone change at 256 & 260 Lexington Avenue, this project is taking existing high density housing in the College Town area and making more modern and better suited residential units for the current use. Further, the R-5 zone has been consistently utilized for student housing around UK's campus with the Newtown Crossings on S. Broadway, The Collegiate at Angliana, Youngs Apartments on Rose, and the Wynndale Development on Lexington. The proposed increase in density will not have a negative impact on the surrounding area as the parcel is surrounded on three sides by University of Kentucky's administrative buildings and University parking lots. The Maxwell Street corridor is already overwhelmingly high-density residential in this area, with many of the structures consisting of 3 stories of primarily student housing. As such, this proposal is context sensitive and compatible with the surrounding area. Finally, this proposal is supported by the Downtown Master Plan and its recommendation for increasing residential density and allowing flexibility in land use, including consideration for higher residential densities within the downtown area.

The proposal is also consistent with the Comprehensive Plan's Land Use Change Consideration:

1. The Change will address a community need, such as providing ... housing needs.
2. The proposed land use enhances, and is compatible with, adjacent land uses.
3. The land use will promote housing located in close proximity to existing employment centers.
8. The existing utility and transportation networks will accommodate the new land use.
9. Underutilized land should be promoted for greater utility, function, and/or residential densities and/or land uses.
13. The land use should maximize opportunities to accommodate future growth within the Urban Services Area, include land that is underutilized, vacant or planned for a reuse.

Conditional Use Permit

As part of this application, Kappa is also requesting to expand the current and ongoing conditional use of a sorority house at 238 E. Maxwell. Granting the requested conditional use permit will not adversely affect the subject property or any surrounding properties. Either a fraternity or a sorority house has been in this location since at least the 1920's (possibly as early as 1901) and has had no adverse effect on the surrounding properties or neighborhood. The current configuration of the sorority house was previously approved as a conditional use and this application will simply add buildable area and decrease surplus parking to the previously-approved use. The expansion is attached to the existing sorority house and will be seamlessly incorporated into original structure. Onsite parking will be provided and the property and parking lot will be landscaped and screened as required by the Zoning Ordinance. Finally, the property is

located in a developed area and all necessary public facilities and services, including roads, sanitary sewers, utilities, refuse collection, police and fire protection, are available and adequate to serve a sorority house.

Requested Variances

While there are several variances being requested, most of the variances are based around the need to create better access points, parking layout, and the enhanced side yard requirements in the R-5 zone conflicting with the existing structure.

Parking: Section 16-4(c) of the Zoning Ordinance presents two problems that require a variance. First, Subsection (2) prohibits front and side yard parking and Subsection (4) results in a maximum parking of 28 spaces in the infill and redevelopment area. There are currently 46 parking spaces on the existing site and parking in both the front and side yards. Our request is to alter the access points to eliminate an existing conflict with Stone Ave and continue the front and side yard parking with an altered layout of only 33 spaces. There are no proposed spaces that will be directly in front of the original structure. The altered layout will enable better fencing and landscape screening of the vehicular use areas than currently exists and a reduction in the number of parking. This request also requires a reduction of Section 8-14(h)'s building line from 20 feet to 4 feet to allow for the front yard parking, while still providing screening. This reduction does not impact any actual building or structure as the proposal's closest building face is approximately 55 feet from the property line.

Side Yard: Section 8-14(i) requires a minimum of 10 feet for each side yard. There are three different areas to consider: the original front structure, the covered side stoop, and the rear addition. The existing structure's footprint, which will be maintained, is approximately 8' 6" from the property line at its closest point. The covered stoop for a side entrance is 7' 4" from the property line. A variance will need to be granted for these two areas. Finally, the proposed rear expansion building face maintains the 10 foot setback with an overhang on the roof that is approximately 8' 6" from the property line. If the side yard is measured from this overhang, a variance will need to be granted. If the side yard is measured from the actual building face, no variance is required.

Building Height: Section 8-14(m) limits building height to a 4:1 building height to yard ratio. Similar to the side yard request, there are three different areas to consider when determining whether the building height requires a variance. An elevations exhibit will be submitted to ensure compliance with all application building heights and clarify the need for any variance request.

1. **Rear Addition:** The distance to the rear addition building face from the property line is 10' 1". This area has an overhang on the roof that is approximately 8' 6" to the property line. The half-way point of tallest gable for the northwestern side is 35' 6". If the overhang is used as the calculation point for the 4:1 ratio, a variance will need to be granted. If it is the distance to the building wall, there is no variance required.
2. **Covered Side Stoop:** The covered side entrance has a setback of 7' 4" and cannot meet the 4:1 ratio for the 35' 6" height to the tallest gable of the building at first

blush. However, the actual building face in this area is approximately 12' from the property line and the covered side entrance is only 12 feet in height. As such, the only structure in the 10' side yard and the actual building face both clearly meet the 4:1 ratio if viewed alone. If the covered porch side yard distance and the 35' 6" height to the tallest gable are used for the ratio's calculation points, a variance will need to be granted. If they are viewed separately, no variance is required.

3. Original Front Structure: The height on the existing front portion of the house is not proposed to change from its existing 23' 3.5" height and is approximately 8' 6" away from the property line. If the 4:1 ratio is calculated from the actual height in this location, no variance is required. However, if this smaller portion of the project must comply with the tallest gable mark of the rear addition at 35' 6", a variance will need to be granted.

All of these requests will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. The parking requests are simply altering the layout and actually reducing the number of spaces onsite. The realigned one-way access points will be a clear benefit for the traffic at the intersection of Stone and Maxwell and create a more aesthetically pleasing front yard landscape scheme. There is also front and side yard parking on various parcels throughout the Maxwell Street corridor. All of the areas for the expanded footprint are in compliance with the side yard & building height requirements, with the exception of the covered side access staircase and existing building location. The adjacent building is an administrative building for the University of Kentucky and it sits well off the shared property line. Simply put, the proposed project will not have an adverse impact on the surrounding area and the variances will allow for the retention of the original structure and lead to a more efficient and safe access and parking layout.

We will be at the February public hearing in order to make a complete presentation of this application and request your favorable consideration.

Best Regards;

Stell Keenon Ogden PLLC



Nick Nicholson

NN:NN



NICK NICHOLSON
DIRECT DIAL: (859) 231-3950
DIRECT FAX: (859) 246-3649
Nick.Nicholson@skofirm.com

300 WEST VINE STREET
SUITE 2100
LEXINGTON, KY 40507-1801
MAIN: (859) 231-3000
FAX: (859) 253-1093

January 30, 2017

Lexington-Fayette Urban County Planning Commission
101 E. Vine Street
Lexington, KY 40507

Re: Zone Change Application for 238 East Maxwell Street

Dear Members of the Planning Commission:

We represent Kappa Kappa Gamma ("Kappa"), the property owner of 238 E. Maxwell Street. On Kappa's behalf, we have filed a zone change application to High Rise Apartment (R-5) Zone from the existing High Density Apartment (R-4) zone to allow for a modern renovation and expansion of the existing sorority house on the 0.93 acre parcel. This letter is to provide additional information regarding the requested variances associated with the proposed parking layout and the side yard setback to the northwest.

Side Yard: After discussing the side yard and building height measurements with the Planning Staff, the Applicant is requesting to vary Section 8-14(i) 10 foot side yard requirement to 8 feet along the northwestern property line. This allows the original front portion of the building to maintain its existing location. The proposed addition that will connect to the rear of the original structure maintains the 10 foot setback as called for in the Zoning Ordinance. This variance will not cause any adverse impact on the surrounding area as this request simply recognizes the existing location of the building since the early 1900's. Furthermore, denial of this variance constitutes an undue hardship as it would require moving an existing structure without any clear benefit to the neighboring parcel.

Building Height: With the reduction in the side yard to 8 feet, the Applicant must also request a variance to the 4:1 building height to yard ratio in Section 8-14(m). The Applicant requests permission for the rear addition to have a building height of 42' measured at the midpoint of the tallest gable. The rear addition has multiple gables with the tallest being located near the middle of the parcel approximately 60 feet from both side property lines and 100 feet from East Maxwell. As previously explained in the Applicant's justification letter, the rear addition is 10'1" off the northwestern property line at its closest point and the building height is only 35'6" along this property line. As such, the increase in allowable building height will not impact the surrounding area as the tallest point is unlikely to be visible from the parcel with the decreased side yard thereby maintaining the intent of the building height ratio.

Parking: Section 16-4(c)(2) of the Zoning Ordinance prohibits front yard parking. Kappa's proposed development plan requires a waiver of the front yard parking prohibition and a variance to reduce Section 8-14(h)'s building line from 20 feet to 4 feet to allow for the front yard parking. Currently, the Applicant has significant parking in the side and rear yards along

the southern property lines. This parking continues from the rear of the lot up to E. Maxwell Street with little screenage of the parking area. The submitted development plan alters the existing layout to provide several enhancements. First, we propose to increase the spacing between the two existing access points and converting the entrance into a one-way access. This leads to safer access off of E. Maxwell and eliminates the existing turn conflicts with Stone Avenue across the street. Second, we are increasing security by installed a gated parking area for overnight parking. Third, we are proposing to screen the parking in the front yard with landscaping and a fence along E. Maxwell. This buffer will limit any adverse visual impact and represents a much more attractive option than existing conditions of the parking area near E. Maxwell. It is important to note that there is no parking proposed in front of the original house – only the side addition. This request will not change the existing presentation of the original structure to E. Maxwell in any manner. Also, the front yard parking is proposed in the area that is currently being used for access and parking. Finally, this request will not have an adverse impact on the area as throughout the E. Maxwell blocks from Limestone to Rose, there are parking locations within the 20 foot setback – often times just a few feet off of Maxwell; such as, the UK-Good Samaritan hospital lots, the Maxwell Presbyterian Church, the Theta Chi fraternity house, and the An/dor commercial building. Often times, the parking does not include any type of screening between the parking and E. Maxwell, unlike our proposal. There are also several residential lots in this area that utilize driveways for front yard parking and lots with only a stubbed driveway in the front yard such as 304 E. Maxwell. Simply put, with the proposed screening, there will not be an adverse impact to the area and the proposed design allows for a more efficient parking layout and safer access to and from E Maxwell Street.

We will be at the February public hearing in order to make a complete presentation of this application and request your favorable consideration.

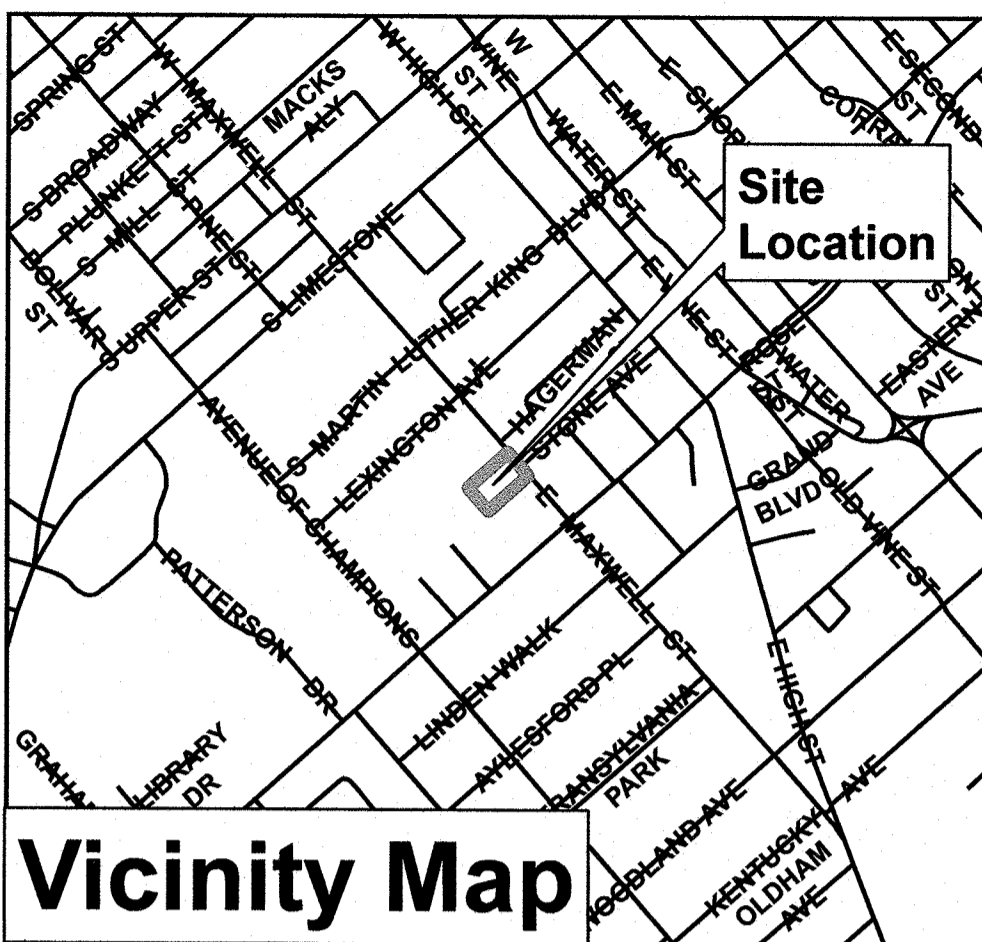
Best Regards;

Stoll Keenon Ogden PLLC

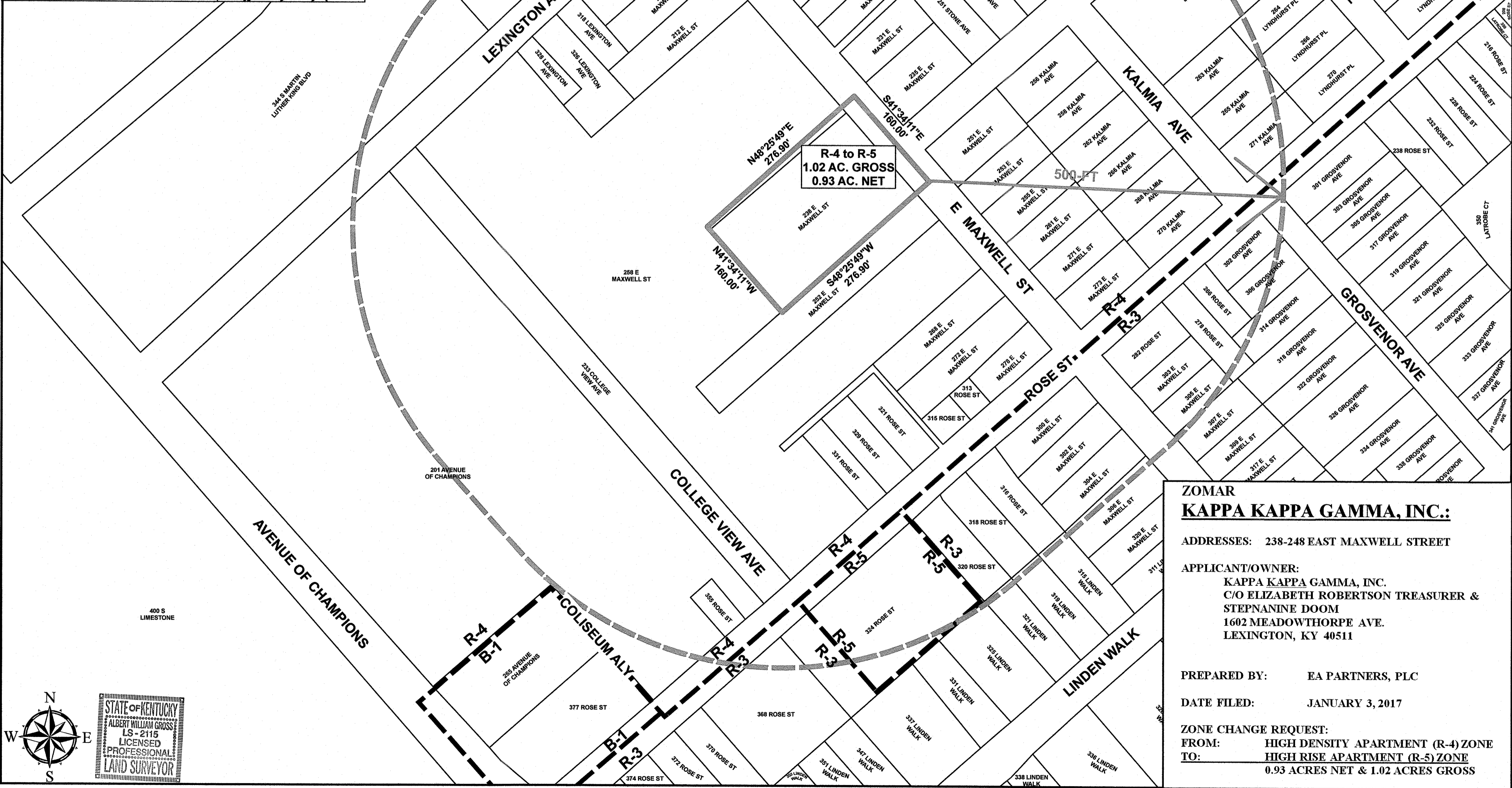


Nick Nicholson

NN:NN

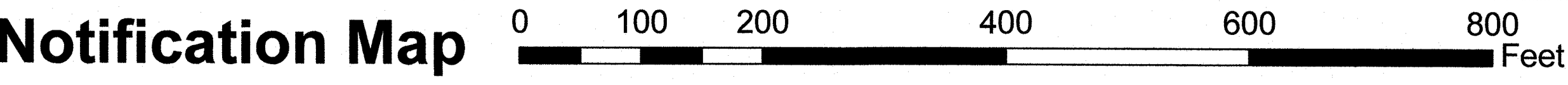
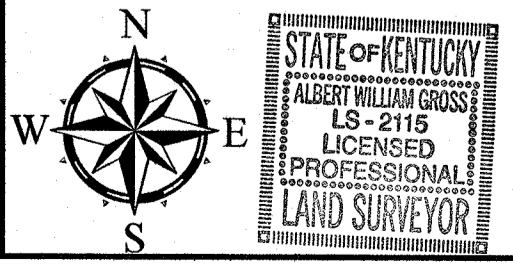


Vicinity Map



R-4 to R-5
1.02 AC. GROSS
0.93 AC. NET

**ZOMAR
KAPPA KAPPA GAMMA, INC.:**
ADDRESSES: 238-248 EAST MAXWELL STREET
APPLICANT/OWNER:
KAPPA KAPPA GAMMA, INC.
C/O ELIZABETH ROBERTSON TREASURER &
STEPHANINE DOOM
1602 MEADOWTHORPE AVE.
LEXINGTON, KY 40511
PREPARED BY: EA PARTNERS, PLC
DATE FILED: JANUARY 3, 2017
ZONE CHANGE REQUEST:
FROM: HIGH DENSITY APARTMENT (R-4) ZONE
TO: HIGH RISE APARTMENT (R-5) ZONE
0.93 ACRES NET & 1.02 ACRES GROSS



STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-17-00001: KAPPA KAPPA GAMMA, INC.

DESCRIPTION

Zone Change: From a High Density Apartment (R-4) zone
To a High Rise Apartment (R-5) zone

Acreeage: 0.93 net (1.02 gross) acre

Location: 238-248 E. Maxwell Street

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Properties	R-4	Sorority House
To North	R-4	Residential Apartments
To East	R-4	Residential Apartments
To South	R-4	University of Kentucky
To West	R-4	University of Kentucky

URBAN SERVICES REPORT

Roads – This section of East Maxwell Street is a minor arterial street. Maxwell Street is an east-bound one-way street paired with High Street, which is for west bound traffic. The Downtown Master Plan recommended the two-way conversion of these streets; however, that has yet to occur. The corollary development plan depicts a modified access location for the subject site, but does maintain two access points to E. Maxwell Street.

Curb/Gutter/Sidewalks – E. Maxwell Street does have curb, gutter and sidewalks improvements.

Storm Sewers – The subject site is located within the Town Branch watershed. There are no known stormwater problems in this immediate area, nor is there a FEMA special flood hazard area in the vicinity. The existing storm sewer system should accommodate the redevelopment of the subject property, as much of it is currently impervious.

Sanitary Sewers – The subject property and the immediate area are served by sanitary sewers. The subject property is located in the Town Branch sewershed and is served by the Town Branch Wastewater Treatment Plant located off Leestown Road/West Main Street. There are no known problems to the existing sanitary sewers in this immediate area; however, the Capacity Assurance Program has identified the sewer bank as one that remains low in available credits.

Refuse – The Urban County Government serves this portion of the Urban Service Area with collection on Mondays.

Police – The nearest police station is located on E. Main Street in downtown Lexington, approximately 1/3 mile northeast of the subject property. The property is located within Police Sector 2, known as the Central Sector. The Central Sector Roll Call Center is located off Winchester Road near New Circle Road, approximately 2 miles east of the subject property.

Fire/Ambulance – The nearest fire station (#5) is located about ½ of a mile southeast of the property, at the corner of Woodland Avenue and E. Maxwell Street.

Utilities – Telephone, electric, water, natural gas, and cable television service, as well as streetlights, all currently serve the subject property.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan’s mission statement is to “provide flexible planning guidance to ensure that development of our community’s resources and infrastructure preserves our quality of life, and fosters regional planning and economic development.” The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The 2013 Comprehensive Plan also encourages growing successful neighborhoods (Theme A) by expanding housing choices (Goal #1), supporting infill and redevelopment as a strategic component of growth that respect’s the area’s design features (Goal #2), and providing well-designed neighborhoods and communities (Goal #3). In addition, the Plan calls for compact, contiguous development to accommodate future growth needs (Theme E, Goal #1b).

The petitioner proposed rezoning the subject property in order to make an addition to the existing sorority house, and revise the associated off-street parking. A conditional use and dimensional variances have also been requested in association with the zone change application.

CASE REVIEW

The petitioner has requested a zone change from a High Density Apartment (R-4) zone to a High Rise Apartment (R-5) zone for 0.93 net acre of property.

The property is located on the west side of Maxwell Street, surrounded by the University of Kentucky campus, specifically the Raymond F. Betts House, Administration offices and the Joe Craft Center parking lot (employee parking).

The petitioner proposes the rezoning to R-5 in order to expand the existing sorority house, and modify the associated off-street parking area. A sorority house is a conditional use in the R-3, R-4 and R-5 zones. A separate report will address the conditional use and variances that have been requested in conjunction with this zone change application.

The petitioner proposes to remove an existing addition, and replace it with a larger addition to the historic main structure. The facility is proposed to be a total of 35,120 square feet in size, which will house 68 women, and contain meeting facilities, a dining room and study rooms. The sorority house also has living quarters for a house mother and a guest room for a total of 70 occupants/residents. The population density of 70 occupants for this facility is roughly equivalent to 17.5 dwelling units on the subject property, which would correspond to a residential density of 18.81 dwelling units per acre. According to the UK Fraternity and Sorority Affairs office, the Greek population at UK is about 6,000 students, of which 4,000 are sorority members. They also stated that Greek populations are growing across the United States, but especially in the southeastern region, and larger chapter houses have become the trend. The average sorority membership at UK is 265 students, of which only a portion are able to reside in any chapter house.

The 2013 Comprehensive Plan emphasizes planning goals, objectives and policies, and no longer makes a future land use recommendation on each parcel of land throughout the urban county. The 2013 Plan and the *Downtown Master Plan* are relevant to any requested zone changes in the College Town area, which is located between E. High Street, Rose Street, Avenue of Champions and S. Limestone. E. Maxwell Street divides the College Town area and much of the property within the area is either owned by the University of Kentucky or supports the campus (housing, retail, restaurant and bars, etc.). The *Downtown Master Plan* recommends increasing residential development (Recommendation #4), but does not encourage much change along the E. Maxwell corridor. The *Master Plan* states that "the area represents a mix of opportunities and challenges, within a sound architectural and commercial footing. Important to the successful development of the area is the retention of old and historic buildings and development of housing and retail space that not only increases density, but also responds to the surrounding architectural character" (page 75). Looking back, the 2001 Comprehensive Plan was the last future land use map that made a specific recommendation for the subject property; the Land Use Element recommended a future land use of High Density Residential (HD), defined as up to 25 dwelling units per net acre. The petitioner's proposal to increase the number of dwelling units, and to maintain the existing historic structure, is consistent with the past 2001 Comprehensive Plan land use recommendation and with the *Downtown Master Plan*.

The petitioner contends that the requested rezoning is in agreement with the 2013 Comprehensive Plan's Goals and Objectives, and the land use change consideration utilized by the staff in reviewing zone change applications. The Goals and Objectives encourage growing successful neighborhoods (Theme A) by expanding housing choices (Goal #1), supporting infill and redevelopment as a strategic component of growth that respect's the area's design features (Goal #2), and providing well-designed neighborhoods and communities (Goal #3). In addition, the Plan calls for compact, contiguous development to accommodate future growth needs (Theme E, Goal #1b). The increased density desired by the sorority, which necessitated the rezoning request, will allow a greater number of students to live on or near campus, which reduces commuter traffic.

Additionally, the E. Maxwell corridor is already overwhelmingly high density residential in character, with many 3-story structures used primarily for student housing. Although the property is surrounded by existing R-4 zoning, all of the adjoining parcels are also owned by the University of Kentucky and could be significantly modified without the Planning Commission's review. The necessity of the R-5 zone is to facilitate a larger building (with a maximum FAR of 1.3 and a maximum coverage of 35%), but the scale of the building will not be out of character with the surrounding structures in the immediate vicinity. In this case, the staff believes that the R-5 zone and higher density are supported by the Comprehensive Plan.

The Staff Recommends: Approval, for the following reasons:

1. The requested High Rise Apartment (R-5) zone is in agreement with the 2013 Comprehensive Plan and the *Downtown Master Plan*, for the following reasons:
 - a. The subject property is located within the College Town precinct of the Downtown Master Plan. The *Master Plan* encourages increasing residential development (Recommendation #4).
 - b. The *Downtown Master Plan* for the College Town precinct and the E. Maxwell corridor specifically, does not encourage much physical change or standard infill development. The *Master Plan* states that "important to the successful development of the area is the retention of old and historic buildings and the development of housing and retail space that not only increases density, but also responds to the surrounding architectural character."
 - c. The petitioner's proposal incorporates both retention of the historic residential structure and increased density for the subject property.
 - d. The Goals and Objectives of the 2013 Comprehensive Plan, specifically within *Theme A: Growing Successful Neighborhoods*, support expanding housing choices to meet the needs of all citizens (Goal #1b.); support infill and redevelopment that respect's the context and design features of the area (Goal #2a.); and providing well-designed neighborhoods and communities (Goal #3). The E. Maxwell corridor is already overwhelmingly high density residential in character, with many 3-story structures used primarily for student housing. The necessity of the R-5 zone is to facilitate a larger building (with a maximum FAR of 1.3 and a maximum coverage of 35%), but the scale of the building will not be out of character with the surrounding structures in the immediate vicinity, which are 2- and 3-stories in height.
 - e. The Goals and Objectives of the 2013 Comprehensive Plan call for compact, contiguous development to accommodate future growth needs (Theme E, Goal #1b). The increased density desired by the sorority, which necessitated the rezoning request, will allow a greater number of students to live on or near campus, which reduces commuter traffic.
2. This recommendation is made subject to approval and certification of [PLN-MJDP-17-00003: Kappa Kappa Gamma, Inc.](#), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

TLW/WLS

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STAFF REPORT ON VARIANCES REQUESTED FROM PLANNING COMMISSION

PLN-MAR-17-00001: KAPPA KAPPA GAMMA, INC.

REQUESTED CONDITIONAL USE

1. Sorority House

REQUESTED VARIANCES

1. Increase the maximum height from a 4:1 height-to-yard ratio to 42'
2. Reduce the minimum front yard from 20' to 4' (along E. Maxwell Street)
3. Reduce the minimum side yard from 10' to 8'
4. Increase the maximum parking from 28 spaces to 37

ZONING ORDINANCE

Article 6-4(c) states: "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 of the application, unless postponed further by the applicant."

Article 8-14(d)1, by reference to Article 8-12(d)8, states that a fraternity house is permitted as a conditional use in the R-5 zone, subject to approval by the Board of Adjustment.

Article 8-14(h) states that the minimum front yard in the R-5 zone is 20'.

Article 8-14(i) states that the minimum side yard in the R-5 zone is 10'.

Article 8-14(k) states that the minimum useable open space in the R-5 zone is 20%.

Article 8-14(m) states that structures, including a sorority house, are limited to a maximum height-to-yard ratio of 4:1 in the R-5 zone.

Article 8-14(n), by reference to Article 8-12(n), states that a sorority house in an R-5 zone shall provide at least five (5) off-street parking spaces, plus one (1) space for every five (5) beds.

Article 16-4(c)1 states that in the R-5 zone, no off-street parking area, loading or unloading area, maneuvering area or aisles shall be permitted within the required front yard of any lot with a principal building.

Article 16-4(c)4 states that in an R-5 zone located within the defined Infill & Redevelopment Area, no off-street parking area, "the maximum number of surface parking spaces on the lot will be no more than fifty percent (50%) additional spaces over the required parking."

CASE REVIEW OF VARIANCE REQUESTS

The appellant is requesting a conditional use permit to permit a major expansion of an existing sorority house in a proposed R-5 zone for the property located at 238-248 East Maxwell Street. Variances have also been requested to reduce the required front yard (along East Maxwell Street) and the required side yard (along the northwestern property line, and to increase the building's height and number of off-street parking spaces. Stone Avenue, a local street that connects East Maxwell Street to East High Street, intersects East Maxwell directly across from the Kappa Kappa Gamma sorority. The subject property is located immediately north of the University of Kentucky campus.

A two-story brick building, constructed with nearly 18,000 square feet of floor area, is currently situated on this property. It has been used for Greek (student) housing for nearly a century. The appellant is proposing to modernize the building and construct a sizeable addition into a more modern sorority, and provide up to 70 beds. The building expansion proposed will not demolish the original structure, which orients to E. Maxwell Street and Stone Avenue, but several renovations will be required to the interior of the existing building. The actual building complies with the 20'

front yard requirement of the proposed R-5 zone along East Maxwell, but the existing parking lot will shrink, and new parking is proposed in close proximity to the public street sidewalk at the front of the property. The existing level of parking on the property is considered to be non-conforming, with respect to the maximum number of spaces on the sorority's property, which is a requirement only inside the designated Infill & Redevelopment Area.

Conditional Use Permit – Once construction is completed, surrounding properties in this area are not likely to be disturbed by the proposed expansion of the sorority house. There are a variety of multi-family residential uses in the area, primarily rentals; and a fraternity house is located directly across East Maxwell from the subject property, on the northern corner of Stone Avenue. This is much different than the situation only one or two blocks farther to the east, where there is a much higher frequency of owner-occupied dwellings in the Aylesford Historic District. Provided that the proposed off-street parking area is revised, as may be recommended by the Divisions of Traffic Engineering and/or Planning, an expansion of the existing sorority house at this location should not create any adverse impacts to this neighborhood.

Parking Variance (increase number of spaces) – A reconfiguration of the parking area is proposed that would result in a loss of more than a dozen park parking spaces currently provided on the site. These are served by a single driveway located a short distance from the street's intersection with Stone Avenue. A circular drive is now proposed to allow vehicles to enter and exit the subject site very close to the intersection with Stone Avenue, and six of the 37 spaces proposed are to be sandwiched between this loop drive. The maximum number of spaces allowable at this location is 28, based on Article 16-4(c)4 of the Zoning Ordinance, which is greatly exceeded currently. The new parking lot will more closely comply with this provision of the Zoning Ordinance.

Parking/Front Yard Variance from 20' to 4' (location of spaces) – The front yard reconfiguration of the parking, and the construction of a loop drive, is a major change proposed to the front of the subject site. Off-street parking is prohibited in the required 20' front yard of (both the existing and) the proposed R-5 zone, and very few parking spaces, if any, are currently situated this close to the sidewalk on East Maxwell Street. A wall is proposed to separate six new parking spaces, in a 5' setback from the sidewalk, along East Maxwell. The fact is, with a relocation of either the drive aisle, the proposed side yard for the sorority, or the parking spaces themselves, they can be provided on the site without the need of this particular dimensional variance.

The staff is concerned that approval of this variance would lead to other, similar requests to do the same thing up and down East Maxwell Street. The staff knows of no other such parking lot along this corridor within a three block area surrounding the subject site, until a church parking lot located near the corner of East Maxwell and Martin Luther King Jr. Boulevard.

Height increase from a 4:1 height-to-yard ratio to 42' – The applicant seeks approval of a height variance to permit a three story addition to this existing building. It is the existing building that causes the need for this height variance, even though its height is not proposed to be increased. The height of the new addition is proposed to be a maximum of 42' at its highest point, and would comply with the ordinance, was it not connected to the front (historical) part of the structure being retained. A variance of about 2' to the height of this building is not a circumvention of the Zoning Ordinance, since almost all of the structure, new and old, will comply with the 4:1 height-to-yard ratio required in the proposed R-5 zone. Adjacent buildings (existing and future) on the University of Kentucky campus will not be required to adhere to this limitation, due to the university's general exemption from zoning.

Side Yard Variance from 10' to 8' – The side yard along the northwestern property line is proposed to be just shy of compliance with Article 8-14(i). The existing building is only 8' from that property line today, but none of the proposed addition to the rear of the historic structure will be as close as 10' to that property line. In fact, the entire building might average at a 10' setback, which would comply with the Zoning Ordinance requirements. However, in an abundance of caution, given that the final design of the rear addition has not yet been completed, the side yard variance is requested so that the project might proceed without any unanticipated delay, should the rezoning to the R-5 zone be granted. The adjoining property is owned and operated by the University of Kentucky, and retention of the existing building on the front of the site should not be detrimental to UK in any fashion.

These are circumstances that are fairly unique to the applicant's property that are not applicable to most others in an R-5 zone. With the exception of the front yard variance, these will not have any impact on the health, safety or welfare of neighborhood residents or those in nearby multi-family residential buildings. The subject property's redevelopment will provide a more modern housing option for sorority members, and should also be safer as a result.

Reducing most of the allowable parking, side yard and height limitations for this redevelopment will not result in an unreasonable circumvention of the Zoning Ordinance, given the University of Kentucky owns property surrounding Kappa Kappa Gamma on three sides of their property.

This leads the staff to be supportive of all but one of the four requested variances, and supportive of this request for a conditional use permit for the expanded sorority house.

The Staff Recommends: Approval of the requested Conditional Use Permit, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. The level of nonconformity with regard to off-street parking will be reduced, with the final design of the proposed parking lot and access to East Maxwell Street to be subject to review and approval by the Division of Traffic Engineering. Surrounding residentially-zoned properties are primarily rental or institutional in nature, and are not likely to be disturbed by the proposed sorority house.
- b. All necessary public facilities and services are available and adequate for the proposed use (as indicated in the staff's Zoning Staff Report).

The Staff Recommends: Disapproval of the requested Front Yard Variance, for the following reasons:

- a. Open space areas in front of most properties along East Maxwell Street are devoid of off-street parking areas.
- b. The six proposed parking spaces in the front of this sorority house can be provided on the subject lot, without the need for this dimensional variance.
- c. Not granting this dimensional variance will not pose an unreasonable hardship to the applicant, as they have chosen to reduce the off-street parking (available for sorority members) on its property.
- d. The sorority's current off-street parking substantially complies with a 20' setback from East Maxwell Street.
- e. A University of Kentucky parking lot exists immediately adjacent to the sorority house, and on-street parking is also available on both East Maxwell Street and Stone Avenue.

The Staff Recommends: Approval of all other requested Dimensional Variances, for the following reasons:

- a. There will be no adverse health, safety or welfare impact to the adjoining neighborhood or neighboring properties from these variances. The height and side yard variances are minimal, and are only required for the proposed construction because of the applicant's desire to retain the historical sorority house existing on the front of the subject property, and much of the existing non-conforming parking (in excess of fairly new requirements).
- b. The unusual circumstance surrounding this proposed R-5 property is that it is bordered by land owned by the University of Kentucky on three sides, including a large parking lot immediately to the south. Open space requirements will be met for the proposed construction on the subject site, and the off-street parking for the sorority will come into greater compliance with the limitations found in the Infill & Redevelopment Area.
- c. Strict application of these Zoning Ordinance requirements would deprive the applicant from a reasonable use of their property, because it would necessitate a significant reduction in this "Greek" housing facility and meeting place.
- d. Approval of these variances would not result in an unreasonable circumvention of the Zoning Ordinance, as the applicant has attempted to reduce the scope and impact of these variances to the greatest extent possible. The height and orientation of this building on the subject site will not be unlike that possible on the adjoining University of Kentucky property, due to their exemption to most of our local Zoning Ordinance requirements.
- e. The variances have been requested by the applicant prior to the construction and redevelopment of their property, and thus, there is no willful violation of any existing zoning regulation by the applicant.

This recommendation of approval is made subject to the following conditions:

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, or as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
3. A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. The new parking lot shall be screened and landscaped as required by Article 18 of the Zoning Ordinance.

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3. **KAPPA KAPPA GAMMA, INC. ZONING MAP AMENDMENT & KAPPA KAPPA GAMMA, INC. ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-17-00001: KAPPA KAPPA GAMMA, INC. - petition for a zone map amendment from a High Density Apartment (R-4) zone to a High Rise Apartment (R-5) zone, for 0.93 net (1.02 gross) acres, for properties located at 238-248 E. Maxwell Street. A conditional use permit and dimensional variances are also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The 2013 Comprehensive Plan also encourages growing successful neighborhoods (Theme A) by expanding housing choices (Goal #1), supporting infill and redevelopment as a strategic component of growth that respect's the area's design features (Goal #2), and providing well-designed neighborhoods and communities (Goal #3). In addition, the Plan calls for compact, contiguous development to accommodate future growth needs (Theme E, Goal #1b).

The petitioner proposed rezoning the subject property in order to make an addition to the existing sorority house, and revise the associated off-street parking. A conditional use and dimensional variances have also been requested in association with the zone change application.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval, for the following reason:

1. The requested High Rise Apartment (R-5) zone is in agreement with the 2013 Comprehensive Plan and the *Downtown Master Plan*, for the following reasons:
 - a. The subject property is located within the College Town precinct of the Downtown Master Plan. The *Master Plan* encourages increasing residential development (Recommendation #4).
 - b. The *Downtown Master Plan* for the College Town precinct and the E. Maxwell corridor specifically, does not encourage much physical change or standard infill development. The *Master Plan* states that "important to the successful development of the area is the retention of old and historic buildings and the development of housing and retail space that not only increases density, but also responds to the surrounding architectural character."
 - c. The petitioner's proposal incorporates both retention of the historic residential structure and increased density for the subject property.
 - d. The Goals and Objectives of the 2013 Comprehensive Plan, specifically within *Theme A: Growing Successful Neighborhoods*, support expanding housing choices to meet the needs of all citizens (Goal #1b.); support infill and redevelopment that respect's the context and design features of the area (Goal #2a.); and providing well-designed neighborhoods and communities (Goal #3). The E. Maxwell corridor is already overwhelmingly high density residential in character, with many 3-story structures used primarily for student housing. The necessity of the R-5 zone is to facilitate a larger building (with a maximum FAR of 1.3 and a maximum coverage of 35%), but the scale of the building will not be out of character with the surrounding structures in the immediate vicinity, which are 2- and 3-stories in height.
 - e. The Goals and Objectives of the 2013 Comprehensive Plan call for compact, contiguous development to accommodate future growth needs (Theme E, Goal #1b). The increased density desired by the sorority, which necessitated the rezoning request, will allow a greater number of students to live on or near campus, which reduces commuter traffic.
2. This recommendation is made subject to approval and certification of PLN-MJDP-17-00003: Kappa Kappa Gamma, Inc., prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

- b. **REQUESTED CONDITIONAL USE** – Sorority House.

c. **REQUESTED VARIANCES**

1. Increase the maximum height from a 4:1 height-to-yard ratio to 42'
2. Reduce the minimum front yard from 20' to 4' (along E. Maxwell Street)
3. Reduce the minimum side yard from 10' to 8'
4. Reduce the maximum parking from 28 spaces to 37

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval of the requested Conditional Use Permit, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. The level of nonconformity with regard to off-street parking will be reduced, with the final design of the proposed parking lot and

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

access to East Maxwell Street to be subject to review and approval by the Division of Traffic Engineering. Surrounding residentially-zoned properties are primarily rental or institutional in nature, and are not likely to be disturbed by the proposed sorority house.

- b. All necessary public facilities and services are available and adequate for the proposed use (as indicated in the staff's Zoning Staff Report).

The Staff Recommends: **Disapproval of the requested Front Yard Variance**, for the following reasons:

- Open space areas in front of most properties along East Maxwell Street are devoid of off-street parking areas.
- The six proposed parking spaces in the front of this sorority house can be provided on the subject lot, without the need for this dimensional variance.
- Not granting this dimensional variance will not pose an unreasonable hardship to the applicant, as they have chosen to reduce the off-street parking (available for sorority members) on its property.
- The sorority's current off-street parking substantially complies with a 20' setback from East Maxwell Street.
- A University of Kentucky parking lot exists immediately adjacent to the sorority house, and on-street parking is also available on both East Maxwell Street and Stone Avenue.

The Staff Recommends: **Approval of all other requested Dimensional Variances**, for the following reasons:

- There will be no adverse health, safety or welfare impact to the adjoining neighborhood or neighboring properties from these variances. The height and side yard variances are minimal, and are only required for the proposed construction because of the applicant's desire to retain the historical sorority house existing on the front of the subject property, and much of the existing non-conforming parking (in excess of fairly new requirements).
- The unusual circumstance surrounding this proposed R-5 property is that it is bordered by land owned by the University of Kentucky on three sides, including a large parking lot immediately to the south. Open space requirements will be met for the proposed construction on the subject site, and the off-street parking for the sorority will come into greater compliance with the limitations found in the Infill & Redevelopment Area.
- Strict application of these Zoning Ordinance requirements would deprive the applicant from a reasonable use of their property, because it would necessitate a significant reduction in this "Greek" housing facility and meeting place.
- Approval of these variances would not result in an unreasonable circumvention of the Zoning Ordinance, as the applicant has attempted to reduce the scope and impact of these variances to the greatest extent possible. The height and orientation of this building on the subject site will not be unlike that possible on the adjoining University of Kentucky property, due to their exemption to most of our local Zoning Ordinance requirements.
- The variances have been requested by the applicant prior to the construction and redevelopment of their property, and thus, there is no willful violation of any existing zoning regulation by the applicant.

This recommendation of approval is made subject to the following conditions:

- Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval of this variance is null and void.
 - Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, or as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
 - A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
 - The new parking lot shall be screened and landscaped as required by Article 18 of the Zoning Ordinance.
- d. PLN-MJDP-17-00003: KAPPA KAPPA GAMMA, INC. (4/6/17)* - located at 238 E. Maxwell Street.
(EA Partners)

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

- Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval is null and void.
- Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
- Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
- Urban Forester's approval of tree inventory map.
- Provided the Planning Commission grants the requested variances.
- Provide exhibit documenting open space requirements per Article 8-14(k) of the Zoning Ordinance.
- Provided the Planning Commission grants the proposed conditional use permit, and dimensional variances.
- Denote proposed fence height adjacent to E. Maxwell Street.
- Discuss requested side yard and height to yard ratio per Article 8-14 of the Zoning Ordinance.

Petitioner - Nick Nicholson, attorney for the applicant, offered a withdrawal of one of the four requested dimensional variances (the one requesting the front yard setback requirement). The Chair noted that the Commission would accept that withdrawal at this time.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

REQUESTED VARIANCES

1. Increase the maximum height from a 4:1 height-to-yard ratio to 42'
2. ~~Reduce the minimum front yard from 20' to 4' (along E. Maxwell Street)~~
3. Reduce the minimum side yard from 10' to 8'
4. Reduce the maximum parking from 28 spaces to 37

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this zone change. She stated that the petitioner is proposing to demolish the back addition on the house and replace it with a new addition, which will be larger and taller. She displayed several photographs of the subject site, and the general area. She said that the architectural integrity of the front of the house will be maintained as residential density will be increased.

Development Plan Presentation – Mr. Martin presented a revised staff report of the rendering of the proposed Preliminary Development Plan. Those recommendations are as follows:

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Provided the Planning Commission grants the requested variances.
6. Provide exhibit documenting open space requirements per Article 8-14(k) of the Zoning Ordinance.
7. Provided the Planning Commission grants the proposed conditional use permit, and dimensional variances.
8. Denote proposed fence heights shown on plan adjacent to E. Maxwell Street.
9. ~~Discuss requested side yard and height to yard ratio per Article 8-14 of the Zoning Ordinance~~
Remove the parking proposed in the required front yard.

Mr. Martin identified the property's location off of East Maxwell Street, and described the location of the proposed building. He said the applicant was proposing a parking lot in the front of the building, which was subject to the variance and withdrawn by the applicant.

Commission Question - Mr. Owens asked about access to the subject property if the front parking is being withdrawn from the plan. Mr. Martin replied that there will still be two accesses to the property. Mr. Owens asked for clarification of the requested variance that states "Reduce the maximum parking from 28 spaces to 37". Mr. Martin said that 28 spaces are required and the applicant is proposing 37 and because of the infill requirements a variance is required to exceed the maximum limit. Mr. Sallee replied that that is a typographical error and that the condition should state: "Increase the maximum parking from 20 spaces to 37."

Ms. Plumlee asked whether capacity assurance needs to be included on the development plan. Mr. Martin said the applicant is grandfathered in under the program. Mr. Sallee replied that will be a concern at the time of the Final Development Plan.

Requested Variance – Mr. Sallee presented the staff report and the staff's recommendations for the requested variances and the one conditional use requested for this zone change. He said that the conditional use is for a sorority house at this location. He said that variance request #4 should read as follows:

4. ~~Reduce~~ Increase the maximum parking from 28 spaces to 37.

Mr. Sallee said the sorority house should not adversely affect the surrounding properties because the subject property is surrounded on three sides by the University of Kentucky, and the other side is residential/rentals, which are mostly students. He said that the six parking spaces in the front of the subject property could be reconfigured elsewhere on the lot. He also said that the maximum number of parking spaces is because this property is within the designated infill and redevelopment area. He said that the height increase is because of the existing front of the house is remaining as is and the side yard is because the existing building is currently approximately eight feet from the property line.

Mr. Sallee reviewed the staffs findings and conditions of the requested variances and conditional use.

Petitioner Presentation – Nick Nicholson, attorney, was present representing the petitioner. He said the applicant is in agreement with the staff's recommendations.

Citizen Comment – There were no citizens present to speak to this application.

Note - Chairman Wilson noted the Commission's earlier acceptance of the withdrawal of variance request #2.

Zoning Action – A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 8-0 (Berkley, Brewer, and Penn absent) to approve PLN-MAR-17-00001: KAPPA KAPPA GAMMA, INC., for the reasons provided by the staff.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

Development Plan Action – A motion was made by Mr. Owens, seconded by Ms. Richardson, carried 8-0 (Berkley, Brewer, and Penn absent) to approve PLN-MJDP-17-00003: KAPPA KAPPA GAMMA, INC., for the revised reasons provided by the staff, as follows:

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Provided the Planning Commission grants the requested variances.
6. Provide exhibit documenting open space requirements per Article 8-14(k) of the Zoning Ordinance.
7. Provided the Planning Commission grants the proposed conditional use permit, and dimensional variances.
8. Denote proposed fence heights shown on plan adjacent to E. Maxwell Street.
9. ~~Discuss requested side yard and height to yard ratio per Article 8-14 of the Zoning Ordinance~~
Remove the parking proposed in the required front yard.

Requested Conditional Use and Variance Action – A motion was made by Mr. Owens, seconded by Ms. Richardson, to approve the three requested variances, for the reasons recommended by the staff and the conditions provided by staff. Approval of the requested conditional use was added to this motion, and agreed to by the seconder.

The motion carried 8-0 (Berkley, Brewer, and Penn absent).