

AN ORDINANCE CHANGING THE ZONE FROM A WHOLESALE AND WAREHOUSE BUSINESS (B-4) ZONE TO A PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE, FOR 0.34 NET (0.43 GROSS) ACRES, FOR PROPERTY LOCATED AT 1251 RED MILE ROAD. (DAVID M. HARL AND JOSOPHIA D. HARL; COUNCIL DISTRICT 11.)

WHEREAS, at a Public Hearing held on March 23, 2017, a petition for a zoning ordinance map amendment for property located at 1251 Red Mile Road from a Wholesale and Warehouse Business (B-4) zone to a Planned Neighborhood Residential (R-3) zone, for 0.34 net (0.43 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 11-0; 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 1251 Red Mile Road from a Wholesale and Warehouse Business (B-4) zone to a Planned Neighborhood Residential (R-3) zone, for 0.34 net (0.43 gross) acres; being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

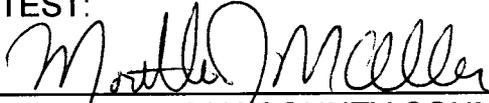
Section 2 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

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

PASSED URBAN COUNTY COUNCIL: May 25, 2017

MAYOR 

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

Published: June 1, 2017-1t

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The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Fayette County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from B-4 To R-3
For
1251 Red Mile Road
Lexington, KY 40508**

Beginning at the northeast corner of Lot A-2 as depicted on 2nd Amended Final Record Plat of Red Mile Square, Inc. of record in Plat Cabinet F, Slide 244, and being in the southern Right-of-Way line of Red Mile Road. Said corner being on the existing B-3 Zone delineation; thence with said existing B-3 delineation for one (1) call:

1. North 46° 35' 00" East 52.11 feet to a point on the centerline of said Red Mile Road; thence with said centerline and continuing with B-3 delineation for one (1) call:
2. South 39° 45' 53" East 75.25 feet; thence severing the existing B-4 Zone for three (3) calls:
3. South 47° 57' 28" West 52.04 feet to the northwest corner of Lot 11 of the J.O. McAlister Property of record in Plat Cabinet E, Slide 278;
4. South 47° 57' 28" West 203.00 feet with the Line of said Lot 11, the terminus of Uhlan Court and Lot 9 as depicted on said J.O. McAlister Property to a point on the line of Parcel No. 1, as depicted on Consolidated Minor Subdivision Final Record Plat of Parker Tobacco Company, Inc. Property of record in Plat Cabinet F, Slide 119;
5. North 42° 02' 32" West 69.00 feet to a point on the line of said Lot A-2; thence with said line and the existing B-3 delineation for one (1) call:
6. North 46° 35' 00" East 206.00 feet to the Point of Beginning containing 0.43 Acre Gross and 0.34 Acre Net.

Rec'd by _____

Date: _____

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

IN RE: PLN-MAR-17-00005: DAVID M. HARL AND JOSOPHIA D. HARL – a petition for a zone map amendment from a Wholesale and Warehouse Business (B-4) zone to a Planned Neighborhood Residential (R-3) zone, for 0.34 net (0.43 gross) acres, for property located at 1251 Red Mile Road. (Council District 11)

Having considered the above matter on **March 23, 2017**, at a Public Hearing, and having voted **11-0** 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 request Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The Goals and Objectives of the Plan recommend expanded housing choices (Theme A, Goal #1); housing options that address the market needs of all citizens (Theme A, Goal #1b.); infill and redevelopment, as well as adaptive reuse of existing structures (Theme A, Goal #2); and calls compact, contiguous and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs (Theme E, Goal #1b.).
 - b. The proposed rezoning will allow adaptive re-use of an existing structure that already has a distinctively residential character. This will allow an additional housing option to address demand for residential Greek housing near the UK campus.
 - c. Multi-family residential dwelling units are common along both the Red Mile Road and South Broadway corridors. These residential developments are located in close proximity to the University of Kentucky and provide much needed housing for students and faculty near the university campus.
 - d. The proposed redevelopment is located within the Urban Service Area, is proposed in a compact and contiguous manner, and addresses future residential growth needs.
 - e. Residential zoning for a fraternity house in close proximity, especially within walking distance, of the University of the Kentucky serves to reduce vehicles miles traveled, as most students that live nearby walk or utilize public transit to campus.
 - f. Redevelopment opportunities exist near the intersection of South Broadway and Red Mile Road. Residential land use and redevelopment has historically been a harmonious land use in the immediate area.
2. This recommendation is made subject to approval and certification of **PLN-MJDP-17-00010: Uhlan Court Subdivision**, 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 21st day of April, 2017.


Secretary, Jim Duncan

WILLIAM WILSON
CHAIR

Note: The corollary development plan, PLN-MJDP-17-00010: UHLAN COURT SUBDIVISION was approved by the Planning Commission on March 23, 2017 and certified on April 6, 2017.

K.R.S. 100.211(7) requires that the Council take action on this request by June 21, 2017.

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

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (11) Berkley, Brewer, Cravens, Drake, Mundy, Owens, Penn, Plumlee, Richardson, Smith, and Wilson

NAYS: (0)

ABSENT: (0)

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-17-00005** 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: DAVID M. HARL AND JOSOPHIA D. HARL, 620 W. MAIN ST, LEXINGTON, KY 40508
Owner(s): DAVID M. HARL AND JOSOPHIA D. HARL, 620 W MAIN ST, LEXINGTON, KY 40508
Attorney: RICHARD MURPHY, MURPHY & CLENDENEN, PLLC, 250 W. MAIN STREET, LEXINGTON, KY 40507

2. ADDRESS OF APPLICANT'S PROPERTY

1251 RED MILE RD, LEXINGTON KY

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

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
B-4	OFFICE	R-3	FRATERNITY	0.34	0.43

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



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.

Variances

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.

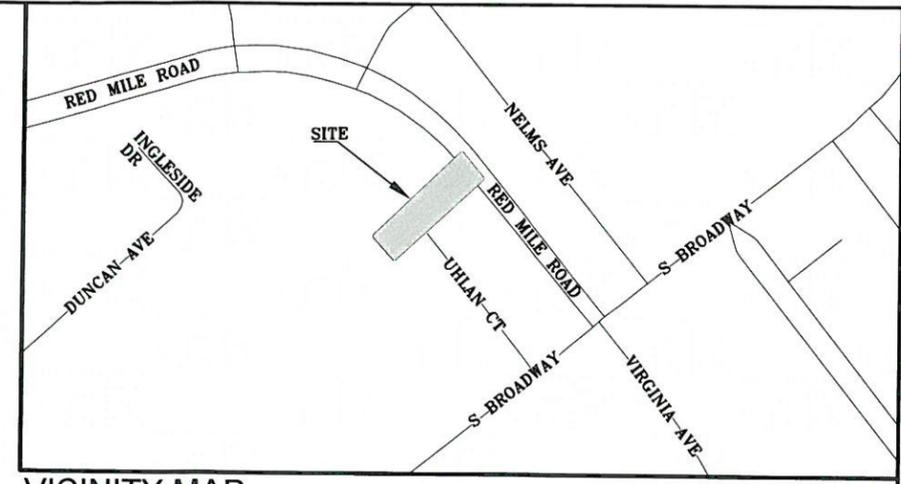
3. The special circumstances which apply to this property and which do not generally apply to the land in the general vicinity or in the same zone are that the applicant wishes to retain the building which can be adapted for residential use. There will be no additional buildings or paving on the site.

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.

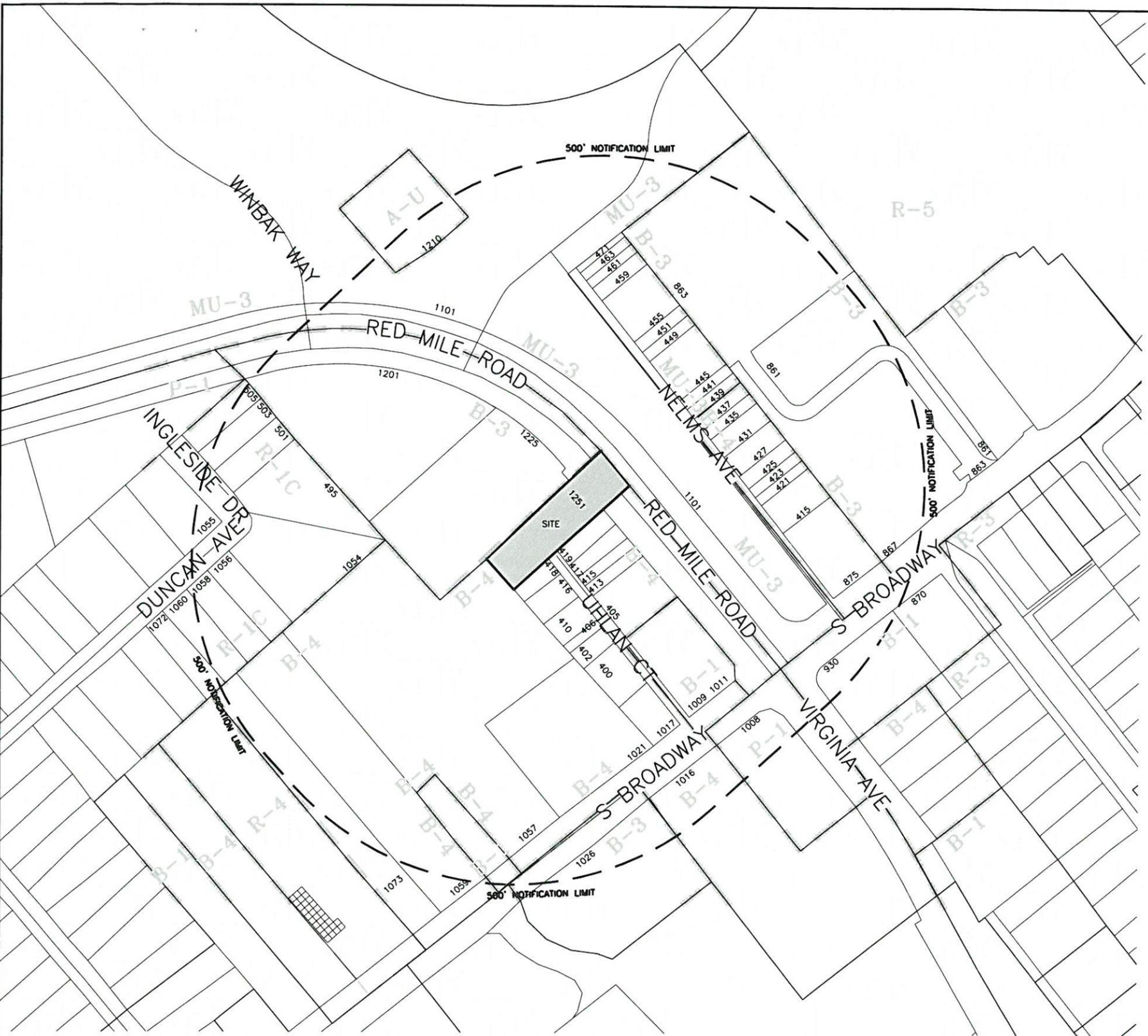
5. The circumstances surrounding the requested variance are not the result of the actions of this applicant. The residential-style B-4 building was constructed on this property in 1985. These applicants purchased the property in 2016.

Thank you for your consideration of this application.

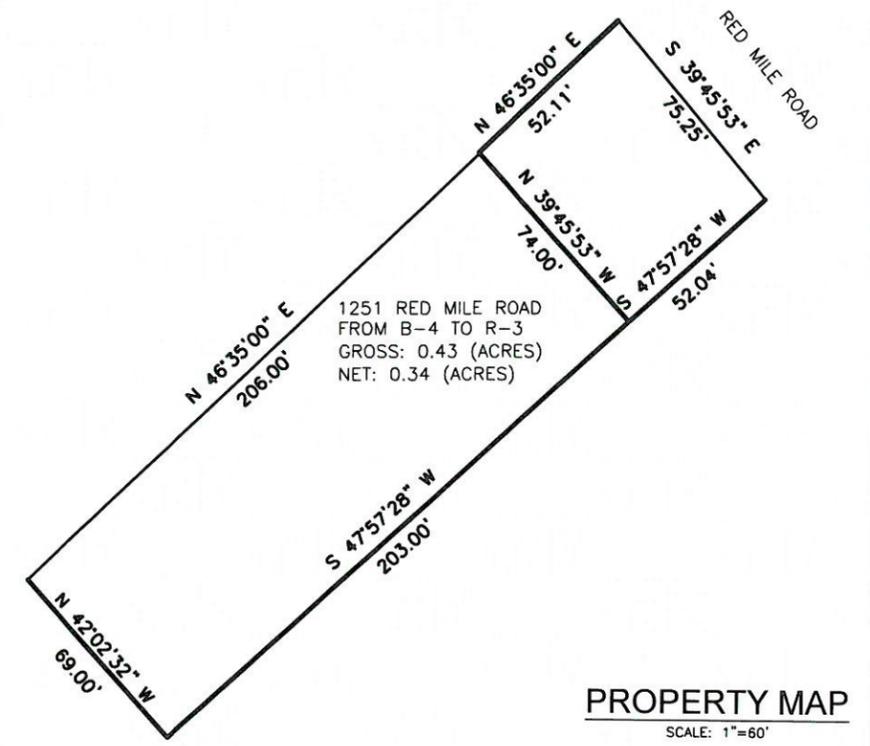

Richard V. Murphy, Attorney for
David and Josophia Harl



VICINITY MAP
NOT TO SCALE



NOTIFICATION MAP
SCALE: 1" = 200'



PROPERTY MAP
SCALE: 1" = 60'

ZOMAR:	TITLE: 1251 RED MILE ROAD			
PROPERTY ADDRESS:	FROM	TO	GROSS	NET
1251 MILE ROAD	B-4	R-3	0.43	0.34
OWNER: DAVID M. HARL AND JOSOPHIA D. HARL				
620 W MAIN ST				
LEXINGTON, KENTUCKY 40508				
APPLICANT NAME / ADDRESS:				
DAVID M. HARL AND JOSOPHIA D. HARL				
620 W MAIN ST				
LEXINGTON, KENTUCKY 40508				
PREPARED BY: VISION ENGINEERING, LLC				
DATE FILED OR AMENDED: FEBRUARY 16, 2017		TOTAL	0.43	0.34

STAFF REPORT ON CONDITIONAL USE PERMIT & VARIANCES REQUESTED FROM PLANNING COMMISSION

PLN-MAR-17-00005: DAVID M. HARL AND JOSOPHIA D. HARL

REQUESTED CONDITIONAL USE

1. Fraternity House

REQUESTED VARIANCES

1. Reduce the minimum front yard from 20' to 4'
2. Eliminate the required 15' perimeter landscape buffer (zone-to-zone screening)

ZONING ORDINANCE

Article 3-2 states that “the conversion of any structure or structures, either residential or non-residential, so as to accommodate an increased number of dwelling units or families, or another permitted use, shall be permitted only within a zone in which a new building for similar occupancy would be permitted under this Zoning Ordinance. The resulting occupancy shall comply with all requirements governing new construction in such zone, including, but not limited to, floor area; floor area ratios; **dimension of yards; open spaces**; and off-street parking. The aforesaid requirements with respect to **yards shall not apply if the conversion involves no exterior structural changes to a principal building**, but shall apply if an accessory building is converted to a principal building.” **(Emphasis added)**

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 8-12(d)8 states that a fraternity house is permitted as a conditional use in the R-3 zone, subject to approval by the Board of Adjustment (or in this case, by the Planning Commission when acting as the Board of Adjustment).

Article 8-12(h) states that the minimum front yard in the R-3 zone is 20’.

Article 8-12(i) states that the minimum side yard in the R-3 zone is 10’.

Article 8-12(k) states that the minimum useable open space in the R-3 zone is 20%.

Article 8-12(n) states that a fraternity house in an R-3 zone shall provide at least five (5) off-street parking spaces, plus one (1) space for every five (5) beds.

Article 18-2(d) states that “no use of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless property perimeter landscaping as required herein has been provided.”

Article 18-3(a)1 states that when “any office or business zone (except P-2) abuts any residential zone, a minimum buffer width of 15' adjacent to all common boundaries (located behind the building line) except street frontage is required, consisting of 1 tree/40' of linear boundary, plus 1) a double row of 6' high hedge, or 2) a 6' high fence, wall or earth mound. The 15' Landscape Buffer Area (LBA) may be reduced to 5' when used in conjunction with a 6' high wall or fence.”

CASE REVIEW

The appellant is requesting a conditional use permit to allow a re-use of a structure formerly used for a wholesale business, to a fraternity house. An R-3 zone is requested for the property located at 1251 Red Mile Road. Variances have also been requested to reduce the required front yard (along Red Mile Road and Uhlan Court) and the required perimeter landscape buffer yard (along the side and rear property lines).

The subject site is on the west side of Red Mile Road, and is situated at the terminus of Uhlan Court, although it does not have access to that street. The property is approximately 400 feet north of South Broadway, and currently has a full access point to Red Mile Road. The international headquarters for the Fraternity of Phi Gamma Delta is on

adjacent property to the north of the subject site. The Avis car rental business, and its extensive parking lot for fleet inventory, is situated to the southwest of the subject property. The site is screened from the Avis lot by a solid 6' high wooden fence and from the fraternity headquarters by extensive landscaping on the property line and on the Phi Gamma Delta Headquarters property. There are very few multi-family residential uses in the immediate area, and only one known single-family dwelling (located on Uhlan Court) within 250' of the subject site.

A three-story brick building, constructed with more than 8,200 square feet of floor area, is currently situated on this property, along with an off-street parking area for about 20 vehicles. It has been used in the past for office space for the past four decades. The building currently complies with the front, side and rear yard requirements of the existing B-4 zone, and the former wholesale business use on the site had an off-street parking requirement of 14 spaces.

The appellant is proposing to modernize and re-use the building and parking lot, with no additions and few (if any) site changes, into a more up-to-date fraternity house, with up to 25 beds. The applicant requests this conditional use permit to house a chapter of Alpha Sigma Phi, which was reestablished and readmitted to the Greek system at the University of Kentucky campus two years ago. This fraternity was formerly located on the campus more than 50 years ago. This new chapter is recognized as a UK student organization, and abides by all University requirements for fraternities. Some 20-25 members are proposed to reside at this location, although more students will visit the site during weekly chapter meetings, and during social events.

At this stage, the Planning staff cannot conclude that all public facilities and services are adequate to serve the proposed use. In particular, the off-street parking and open space required for this use seem to be less than necessary to allow this use to function well on the subject site. A gate is proposed on the front of the property which has the potential to cause vehicles entering the site to back onto Red Mile Road. This gate also may not be easily accessible by the Division of Fire & Emergency Services vehicles. Further, the required open space (20% of the site) may not be compliant if the off-street parking arrangement materially changes. This appears to be little more than a portion of the former parking area, since it is planned to remain nearly 100% paved. Adjustments to the parking layout could create more traditional open space, but may necessitate the need for another variance.

If 1) the proposed privacy gate and off-street parking area on the site can be revised in a fashion that may gain the approval of the Divisions of Traffic Engineering and Fire & EMS, 2) the fraternity conducts itself at this location in accord with all University Greek policies, and 3) the local noise ordinance is not violated after occupancy, a fraternity house at this location might not create any adverse impacts to this neighborhood.

Two dimensional variances have been requested in conjunction with this zone change. One is to reduce the ordinarily required 15' landscape buffer (for zone-to-zone screening) around the site. The other is to allow the existing building to remain (in a new R-3 zone) to be less than 20' from Red Mile Road and Uhlan Court. After reviewing the past history of building permits issued for this B-4 site, only one of the two may be necessary.

The building was constructed by White Construction Company in 1985 for use as an office building. Some 31 off-street parking spaces were required for this use, and were to be provided on the site. Vehicular landscaping was proposed to surround the off-street parking area on three sides. The last permit issued for the construction in 1986 stated that the "Premises cannot be occupied until a final inspection has been made and a certificate of occupancy issued." Another note states that the "Certificate of occupancy will not be issued until landscaping is installed or full cash bond/letter of credit is posted." Apparently, the building was occupied for decades despite the fact that no certificate of occupancy was ever issued for the building. Had the landscaping been installed as required (and maintained over time) then this landscape variance would not be necessary.

Article 3-2 states that zoning "requirements with respect to yards shall not apply if the conversion involves no exterior structural changes to a principal building." No structural changes are proposed to the exterior of the building, other than the possibility of new or larger windows being added (which would not be structural in nature). Thus, it appears to the staff that the front yard variance is not necessary, due to the provisions of Article 3-2.

Article 18-2(d) of the Ordinance requires a 5-15' landscape buffer between a B-4 zone and an R-3 zone. Most of the property perimeter meets this requirement. The existing privacy fence, along with tree plantings along most of the southern and western property boundaries, almost fully complies with the Article 18 requirements; however a few trees are missing from the 1/40 linear feet southern property line. Along the northern property line, the double row hedge is "missing" – keeping that side of the property just short of compliance.

The Landscape Review Committee met on February 14th to review this proposed variance to the landscaping requirements. Although there was not a quorum of the Committee's five members present, commentary focused on the adequacy of the existing landscaping around the site. Only one deficiency was noted in the discussion. The lack of a hedge planting along the northern property line where there is no existing retaining wall was cited. Thus, the staff can agree that the existing landscaping fulfills the intent of the normal Article 18 requirements.

The staff would recommend approval of the landscaping variance, given that the site is well screened currently from the surrounding properties, provided that short (18" – 3') hedge material is planted along the northern property line where there is no retaining wall in existence.

The Staff Recommends: Postponement of the requested Conditional Use Permit, for the following reason:

- a. All necessary public facilities and services are not currently available and adequate for the proposed use. Off-street parking proposed does not offer a sufficient option on the subject site for vehicular movements, without having vehicles maneuver in a planned open space (basketball court) area.

The Staff Recommends: Disapproval (or Withdrawal) of the requested Front Yard Variance, for the following reason:

- a. Article 3-2 of the Zoning Ordinance does not require the existing building to meet the 20' minimum setback from Red Mile Road and Uhlan Court. No structural changes are proposed to the exterior of the principal building on this lot, so the building may be converted regardless of its setback from the adjoining streets.

The Staff Recommends: Approval of the requested Landscape Variance, for the following reasons:

- a. There will be no adverse health, safety or welfare impact to the adjoining neighborhood or neighboring properties from this variance. The existing building and off-street parking lot will remain as it has been for the past 32 years, and only one single family residence is located within 250' of the subject site.
- b. The unusual circumstance surrounding this proposed R-3 property or to other land in this vicinity is that the height of the existing fence and landscape material will almost completely comply with the Article 18 requirements, and materially comply with the need to buffer adjacent properties from this use. The site is bordered by another fraternity-owned land use to the north, and by a large parking lot immediately to the southwest, which necessitate little additional screening beyond that already in existence.
- c. Strict application of these Zoning Ordinance requirements would constitute an unnecessary hardship to the applicant, because it would necessitate a significant construction of privacy fencing along the northern property line amongst a significant tree stand along that property line.
- d. Approval of these variances would not result in an unreasonable circumvention of the Zoning Ordinance, as the applicant has committed to retain all of the existing landscaping on the site, which adequately screens the property from most of its neighbors.
- e. The variance has been requested by the applicant prior to the re-use 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-3; 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 variance that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. The property shall be additionally screened by the installation of an 18"-3' high hedge along the northwest property line, between the end of the existing retaining wall and the rear property line.

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3/2/17

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STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-17-00005: DAVID M. HARL AND JOSPHIA D. HARL

DESCRIPTION

Zone Change: From a Wholesale and Warehouse Business (B-4) Zone
To a Planned Neighborhood Residential (R-3) Zone

Acreage: 0.34 net (0.43 gross) acre

Location: 1251 Red Mile Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	B-4	Formerly General Contractor's Office
To North	B-3 & MU-3	Vacant
To East	MU-3	Vacant
To South	B-4	Vacant, Single-Family Residence, & Commercial
To West	B-3 & B-4	Vehicle Rental Establishment & Vacant

URBAN SERVICES REPORT

Roads – Red Mile Road is a four-lane, minor arterial roadway that connects from Versailles Road (US 60) to South Broadway (US 68). The subject property is located on the southwest side of Red Mile Road, which provides about 75 feet of frontage for the site. Uhlan Court stubs into the subject property from the southeast. It is a sub-standard local street that functions more like an alley, parallel to Red Mile Road. It has an intersection with South Broadway only 130 feet from the Red Mile Road/South Broadway signalized intersection. Uhlan Court has only 20 feet of right-of-way and only 15 feet of pavement. Access to the subject property is planned solely from Red Mile Road.

Curb/Gutter/Sidewalks – Red Mile Road has curb, gutter and sidewalk facilities. Uhlan Court does not have any of the typical urban roadway improvements.

Storm Sewers – The subject property is located within the Wolf Run watershed. Storm sewers exist in this portion of the Urban Service Area along Red Mile Road, and will most likely be adequate to handle the proposed re-use of the subject property. There appears to be a stormwater inlet in the existing parking lot in the center of this lot. No FEMA special flood hazard area exists on the site and no known flooding issues are present.

Sanitary Sewers – The subject properties are located within the Wolf Run sewershed, which is served by the Town Branch Sewage Treatment Facility, located on Old Frankfort Pike, east of New Circle Road. Sanitary sewer capacity will need to be verified by the Capacity Assurance Program prior to certification of the final development plan for the proposed re-use of the subject property, as an increase in sanitary sewer flows are anticipated for this use.

Refuse – The Urban County Government serves this area with refuse collection on Mondays.

Police – The subject property is located within the West Sector, and served by the West Sector Roll Call Center. It is located on Old Frankfort Pike, less than 2 miles to the northwest of the subject property.

Fire/Ambulance – The nearest fire station (#11) is located approximately 3/4 mile to the southwest on Harrodsburg Road between St. Joseph Hospital and Picadome Elementary School.

Utilities – All utilities, including gas, electric, water, phone, and cable TV are available in the area, and have served the properties for many years.

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 petitioner proposes to rezone to a Planned Neighborhood Residential (R-3) zone in order to maintain the existing structure on the site, and convert it to a fraternity house with associated off-street parking. A conditional use permit for a fraternity house and several dimensional variances has also been submitted with the requested zone change.

CASE REVIEW

The petitioner has requested a zone change from a Wholesale and Warehouse Business (B-4) zone to a Planned Neighborhood Residential (R-3) zone for a fraction of an acre of property at 1251 Red Mile Road.

The subject site is located along the southwest side of Red Mile Road, and Uhlan Court stubs into the side yard of the subject property. The property is accessed from Red Mile Road, and the existing structure located on the site prevents the continuation of Uhlan Court as a through street. The site is currently occupied by an office building that is vacant.

The Red Mile Road corridor is a mixture of business, office, institutional and residential uses along its southwest side. The northeast side of the corridor is primarily comprised of the Red Mile racetrack and event center. The Red Mile has plans to further develop its site with mixed-use, including residential, retail establishments, hotels, and restaurants. Additionally, the South Broadway/Harrodsburg Road corridor, located to the southeast of the site, is predominantly commercial in nature within the immediate vicinity of the proposed zone change.

The petitioner proposes the rezoning in order to maintain the existing structure on the site, and convert it to a fraternity house with associated off-street parking. The petitioner has requested several variances and a conditional use permit for a 25-bed fraternity house in conjunction with the zone change request.

The 2013 Comprehensive Plan no longer makes a specific land use recommendation for the subject properties, but rather directs the Planning Commission to consider planning policies and the Goals and Objectives of the Plan for guidance when considering zone change requests. The petitioner contends, first, that the requested R-3 zone is appropriate and the existing B-4 zone is in appropriate. Second, they state that the proposed use is supported by several goals and objectives of the 2013 Comprehensive Plan. Third, the 1990 South Broadway Corridor Plan, an adopted amendment to the 1988 Comprehensive Plan, recommended Retail Office Mixed Use (RO) future land use for the area. This land use category encouraged residential use, and the petitioner opines that the Small Area Plan recommendation lends credence to the idea of locating residential land uses along Red Mile Road, near the South Broadway corridor, and on the subject property.

Although the South Broadway Corridor Plan is a historical planning document, its recommendations are no longer considered current, since the plan is now 27 years old. Rather, the Planning Commission must consider if the request does comply with the 2013 Comprehensive Plan. The staff agrees with the petitioner's justification that the request is in agreement with the Goals and Objectives of the 2013 Comprehensive Plan. The Goals and Objectives of the Plan recommend expanded housing choices (Theme A, Goal #1); housing options that address the market needs of all citizens (Theme A, Goal #1b.); infill and redevelopment, as well as adaptive reuse of existing structures (Theme A, Goal #2); and calls

compact, contiguous and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs (Theme E, Goal #1b.).

The proposed residential zoning for a fraternity house in close proximity, especially within walking distance, of the University of the Kentucky serves the community well. It also reduces vehicles miles traveled as most students that live nearby walk, bike, or utilize public transit to campus. Mixed-use residential development is also planned for land directly across Red Mile Road from this location and a non-conforming, single-family residence exists on adjacent property on Uhlan Court; therefore; it will be compatible with the nearby uses. Lastly, there are redevelopment opportunities near the intersection of South Broadway and Red Mile Road, and residential land use and redevelopment has historically been a good fit in the immediate area.

The Staff Recommends: **Approval**, for the following reason:

1. The request Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The Goals and Objectives of the Plan recommend expanded housing choices (Theme A, Goal #1); housing options that address the market needs of all citizens (Theme A, Goal #1b.); infill and redevelopment, as well as adaptive reuse of existing structures (Theme A, Goal #2); and calls compact, contiguous and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs (Theme E, Goal #1b.).
 - b. The proposed rezoning will allow adaptive re-use of an existing structure that already has a distinctively residential character. This will allow an additional housing option to address demand for residential Greek housing near the UK campus.
 - c. Multi-family residential dwelling units are common along both the Red Mile Road and South Broadway corridors. These residential developments are located in close proximity to the University of Kentucky and provide much needed housing for students and faculty near the university campus.
 - d. The proposed redevelopment is located within the Urban Service Area, is proposed in a compact and contiguous manner, and addresses future residential growth needs.
 - e. Residential zoning for a fraternity house in close proximity, especially within walking distance, of the University of the Kentucky serves to reduce vehicles miles traveled, as most students that live nearby walk or utilize public transit to campus.
 - f. Redevelopment opportunities exist near the intersection of South Broadway and Red Mile Road. Residential land use and redevelopment has historically been a harmonious land use in the immediate area.
2. This recommendation is made subject to approval and certification of PLN-MJDP-17-00010: Uhlan Court Subdivision, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

TL/WLS

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2. **DAVID M. HARL AND JOSOPHIA D. HARL ZONING MAP AMENDMENT & UHLAN COURT SUBDIVISION ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-17-00005: DAVID M. HARL AND JOSOPHIA D. HARL (5/7/17)* - petition for a zone map amendment from a Wholesale and Warehouse Business (B-4) zone to a Planned Neighborhood Residential (R-3) zone, for 0.34 net (0.43 gross) acres, for property located at 1251 Red Mile Road. 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 petitioner proposes to rezone to a Planned Neighborhood Residential (R-3) zone in order to maintain the existing structure on the site, and convert it to a fraternity house with associated off-street parking. A conditional use permit for a fraternity house and several dimensional variances has also been submitted with the requested zone change.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval, for the following reason:

1. The request Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The Goals and Objectives of the Plan recommend expanded housing choices (Theme A, Goal #1); housing options that address the market needs of all citizens (Theme A, Goal #1b.); infill and redevelopment, as well as adaptive reuse of existing structures (Theme A, Goal #2); and calls compact, contiguous and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs (Theme E, Goal #1b.).
 - b. The proposed rezoning will allow adaptive re-use of an existing structure that already has a distinctively residential character. This will allow an additional housing option to address demand for residential Greek housing near the UK campus.
 - c. Multi-family residential dwelling units are common along both the Red Mile Road and South Broadway corridors. These residential developments are located in close proximity to the University of Kentucky and provide much needed housing for students and faculty near the university campus.
 - d. The proposed redevelopment is located within the Urban Service Area, is proposed in a compact and contiguous manner, and addresses future residential growth needs.
 - e. Residential zoning for a fraternity house in close proximity, especially within walking distance, of the University of the Kentucky serves to reduce vehicles miles traveled, as most students that live nearby walk or utilize public transit to campus.
 - f. Redevelopment opportunities exist near the intersection of South Broadway and Red Mile Road. Residential land use and redevelopment has historically been a harmonious land use in the immediate area.
2. This recommendation is made subject to approval and certification of PLN-MJDP-17-00010: Uhlán Court Subdivision, 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** – Fraternity House.

c. **REQUESTED VARIANCES**

1. Reduce the minimum front yard from 20' to 4'
2. Eliminate the required 15' perimeter landscape buffer (zone-to-zone screening)

The Zoning Committee Recommended: Postponement and Approval (as recommended by the staff).

The Staff Recommends: Postponement of the requested Conditional Use Permit, for the following reason:

- a. All necessary public facilities and services are not currently available and adequate for the proposed use. Off-street parking proposed does not offer a sufficient option on the subject site for vehicular movements, without having vehicles maneuver in a planned open space (basketball court) area.

The Staff Recommends: Disapproval (or Withdrawal) of the requested Front Yard Variance, for the following reason:

- a. Article 3-2 of the Zoning Ordinance does not require the existing building to meet the 20' minimum setback from Red Mile Road and Uhlán Court. No structural changes are proposed to the exterior of the principal building on this lot, so the building may be converted regardless of its setback from the adjoining streets.

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

The Staff Recommends: Approval of the requested Landscape Variance, for the following reasons:

- a. There will be no adverse health, safety or welfare impact to the adjoining neighborhood or neighboring properties from this variance. The existing building and off-street parking lot will remain as it has been for the past 32 years, and only one single family residence is located within 250' of the subject site.
- b. The unusual circumstance surrounding this proposed R-3 property or to other land in this vicinity is that the height of the existing fence and landscape material will almost completely comply with the Article 18 requirements, and materially comply with the need to buffer adjacent properties from this use. The site is bordered by another fraternity-owned land use to the north, and by a large parking lot immediately to the southwest, which necessitate little additional screening beyond that already in existence.
- c. Strict application of these Zoning Ordinance requirements would constitute an unnecessary hardship to the applicant, because it would necessitate a significant construction of privacy fencing along the northern property line amongst a significant tree stand along that property line.
- d. Approval of these variances would not result in an unreasonable circumvention of the Zoning Ordinance, as the applicant has committed to retain all of the existing landscaping on the site, which adequately screens the property from most of its neighbors.
- e. The variance has been requested by the applicant prior to the re-use 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-3; 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 variance that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
 4. The property shall be additionally screened by the installation of an 18"-3' high hedge along the northwest property line, between the end of the existing retaining wall and the rear property line.
- d. PLN-MJDP-17-00010: UHLAN COURT SUBDIVISION (5/7/17)* - located at 251 Red Mile Road.
(Vision Engineering)

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

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
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. Division of Waste Management's approval of refuse collection locations.
6. Delete note #1.
7. Delete note #9 (duplicate).
8. Revise note #10 for the use of a gate to the approval of Fire and Emergency Medical Service.
9. Provided the Planning Commission grants the requested variances.
10. Discuss off-street parking layout, and loss of parking.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this zone change. She said that the subject property currently has a residential looking building located on it and the applicant is proposing to re-use that building as a fraternity house with 25 beds, which is a conditional use in the proposed R-3 zone.. She said that the applicant contends in their justification that this zone change is in agreement with the 2013 Comprehensive Plan. The staff agrees and recommends approval of the zone change.

Development Plan Presentation – Ms. Gallt presented a rendering of this development plan, which was displayed, and also handed out an updated staff report to the Commission with revised conditions, as follows:

The Subdivision Committee Recommended: Approval, subject to the conditions listed on today's agenda.

On March 21st the applicant provided a revised submission to the staff addressing several conditions identified by the Subdivision Committee at their March 2nd meeting. The staff can now offer the Planning Commission a revised recommendation for this zoning development plan.

The Staff Recommends: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.

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

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. Division of Waste Management's approval of refuse collection location(s).
6. Delete note #1 reference to "Variance 20' to 4'."
7. Delete note #9 (duplicate).
8. ~~Revise note #10 for the use of a gate to the approval of Fire and Emergency Medical Service.~~
7. 9. Provided the Planning Commission grants the requested variances.
10. ~~Discuss off street parking layout, and loss of parking.~~

She said that this is a Final Development Plan for this location because this is an existing building, and no infrastructure improvements are necessary. She said that there were some concerns regarding the parking and drive aisle. Since the Committee meeting, a revised plan has been submitted changing the layout of the parking and the drive aisle to allow two-way traffic.

Commission Question – Mr. Penn asked about the business on the corner of Uhlan Court and what will be done to discourage vehicles from entering this property for that business. Ms. Gallt replied that there is a significant grade change that will prevent vehicles from doing so. Ms. Wade added that there is a solid fence at the termination of Uhlan Court.

Requested Variance – Mr. Sallee presented the staff report and the staff's recommendations for the requested variances and the conditional use requested for this zone change. He said that the conditional use is for a fraternity house at this location. Mr. Sallee mentioned that a legal size sheet staff exhibit had been prepared, containing the findings previously distributed to the Planning Commission.

Mr. Sallee said that there are two dimensional variances being requested for the subject property to allow the existing building to remain four feet from the right-of-way of Red Mile Road and four feet from the stub of Uhlan Court. He said that the applicant is also asking for the elimination of the perimeter landscaping requirements. He said that with the revised parking and the open space area for the residents, all of the required facilities are adequate for the proposed conditional use. He also said the staff doesn't believe that the variance for the building setback is required because there will not be any structural changes to the existing building. The only exterior changes that will be proposed are the addition of a handicap ramp and a fire escape.

Mr. Sallee said that there are two areas of the existing landscaping material that are not in compliance with the Article 18 requirements. He said, in the rear of the subject building on the property, there are a few trees missing along the fence line and on the northern property line, there isn't a double row of hedge material. There will also be an addition of one handicap parking space. He said that the landscape portion of this request was reviewed by the Landscape Review Committee, but they didn't have a quorum for that meeting. The discussion at that meeting was that the retaining wall should be augmented with a vehicular use planting from the end of the wall to the rear of the parking area, which was included in the staff's recommendation.

Mr. Sallee summarized the findings for the conditional use that appear on the staff's handout and said that the staff has made the following recommendations:

This recommendation of approval for this Conditional Use Permit is made subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval of this conditional use permit 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 conditional use that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. The fraternity shall operate at this location in accordance with University of Kentucky regulations and requirements for Greek organizations, including its alcohol policy, and in accordance with the LFUCG Noise Ordinance.
5. The off-street parking spaces shall be separated from the basketball court area with curbing or wheel stops.

Mr. Sallee stated that the applicant is not in agreement with the curbing and wheel stops on condition #5. He said that staff has no objections to remove that for that condition to require the separation without those particular improvements to the site.

The Staff Recommends: Disapproval (or Withdrawal) of the requested Front Yard Variance, for the following reason:

- a. Article 3-2 of the Zoning Ordinance does not require the existing building to meet the 20' minimum setback from Red Mile Road and Uhlan Court. No structural changes are proposed to the exterior of the principal building on this lot, so the building may be converted regardless of its setback from the adjoining streets.

The Staff Recommends: Approval of the requested Landscape Variance, for the following reasons:

- a. There will be no adverse health, safety or welfare impact to the adjoining neighborhood or neighboring properties from this

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

- variance. The existing building and off-street parking lot will remain as it has been for the past 32 years, and only one single family residence is located within 250' of the subject site.
- b. The unusual circumstance surrounding this proposed R-3 property or to other land in this vicinity is that the height of the existing fence and landscape material will almost completely comply with the Article 18 requirements, and materially comply with the need to buffer adjacent properties from this use. The site is bordered by another fraternity-owned land use to the north, and by a large parking lot immediately to the southwest, which necessitate little additional screening beyond that already in existence.
 - c. Strict application of these Zoning Ordinance requirements would constitute an unnecessary hardship to the applicant, because it would necessitate a significant construction of privacy fencing along the northern property line amongst a significant tree stand along that property line.
 - d. Approval of these variances would not result in an unreasonable circumvention of the Zoning Ordinance, as the applicant has committed to retain all of the existing landscaping on the site, which adequately screens the property from most of its neighbors.
 - e. The variance has been requested by the applicant prior to the re-use 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-3; 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 variance that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. The property shall be additionally screened by the installation of an 18"-3' high hedge along the northwest property line, between the end of the existing retaining wall and the rear property line.

Commission Question – Mr. Owens asked that since there are no windows on the side of the building which faces the closest residential uses on Uhlán Court, what is the process should the applicant choose to later add windows. Mr. Sallee replied that the applicant will not need to appear before the Planning Commission but will need to have that request reviewed by the Division of Building Inspection staff.

Petitioner Presentation – Dick Murphy, attorney, was present representing the petitioner. He said the applicant is in agreement with the staff's recommendations and is withdrawing the request for the front yard variance. He said that the parking and open space areas have been reconfigured, since the Subcommittee meetings. He said that he has met with Casey Kaucher, Division of Traffic Engineering, regarding the gate on the front of the subject property. He said that Traffic Engineering wanted to move that gate should Red Mile Road be widened in the future. He said that the following note will be added to the development plan:

PROPOSED ADDITIONAL NOTE FOR PLN-MJDP-17-000010: UHLAN COURT SUBDIVISION 1251 RED MILE ROAD

In the event that Red Mile Road is widened in the future, the gate shown on this plan may be relocated or eliminated, as determined by the Division of Traffic Engineering.

Mr. Murphy also said that with respect to condition #5; the applicant would like to suggest planters, which are higher in the field of vision. He suggested the following:

5. The off-street parking spaces shall be separated from the basketball court area with curbing or wheel stops or concrete planters or similar materials.

Commission Questions – Mr. Penn asked who will own this fraternity house. Mr. Murphy replied that Mr. and Mrs. Harl will retain ownership with a long term lease to the Housing Corporation.

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

Zoning Action – A motion was made by Ms. Richardson, seconded by Mr. Brewer, and carried 11-0 to approve PLN-MAR-17-00005: DAVID M. HARL AND JOSOPHIA D. HARL, for the reasons provided by the staff.

Development Plan Action – A motion was made by Ms. Richardson, seconded by Mr. Brewer, carried 11-0 to approve PLN-MJDP-17-00010: UHLAN COURT SUBDIVISION, for the reasons provided by the staff.

The Motion was revised to include the revision of the staff recommendations. A motion was made by Ms. Richardson, seconded by Mr. Brewer, carried 11-0 to approve PLN-MJDP-17-00010: UHLAN COURT SUBDIVISION, for the reasons provided by the staff and to add the note submitted by Mr. Murphy:

In the event that Red Mile Road is widened in the future, the gate shown on this plan may be relocated or eliminated, as determined by the Division of Traffic Engineering.

Conditional Uses - A motion was made by Ms. Richardson, seconded by Mr. Brewer, carried 11-0 to approve the conditional uses recommended by the staff and with the addition to condition #5:

This recommendation of approval for this Conditional Use Permit is made subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval of this conditional use permit 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 conditional use that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. The fraternity shall operate at this location in accordance with University of Kentucky regulations and requirements for Greek organizations, including its alcohol policy, and in accordance with the LFUCG Noise Ordinance.
5. The off-street parking spaces shall be separated from the basketball court area with curbing or wheel stops or concrete planters or similar materials.

Requested Variance Action – A motion was made by Ms. Richardson, seconded by Mr. Brewer, carried 11-0 to approve the requested variances, for the revised reasons, and as recommended by the staff and the withdrawal of the front yard variance.

Note: Commission member Patrick Brewer and David Drake left the meeting at 4:30 p.m.

