

Return to:
Rick Peo, Chief Assistant City Attorney
555 South 10th Street
Lincoln, Nebraska 68508

Holdrege Street and Idylwild Drive
FIRST AMENDMENT OF THE DEVELOPMENT AND CONDITIONAL ZONING
AGREEMENT

This First Amendment of the Development and Conditional Zoning Agreement (“Amendment”) is hereby made and entered into as of this ____ day of July, 2012, by and between Kappa Foundation, a Nebraska nonprofit corporation, hereinafter referred to as “Developer,” and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as the “City.”

RECITALS

I.

Developer previously petitioned the City for a change of zone No. 11032 from R-2 to R-6 Residential District upon property generally located at Holdrege Street and Idylwild Drive and legally described as: the north 6 feet of the west 60 feet of Lot 46 and all of Lot 48, Block 1, University Park Addition, Lincoln, Lancaster County, Nebraska hereinafter referred to as the "Property." The City approved the change of zone No. 11032 with the adoption of Ordinance No. 19639.

II.

In consideration of the City re-zoning the Property to R-6 Residential District, the Developer and City entered into the Holdrege Street and Idylwild Drive Development and Conditional Zoning Agreement, dated October 26, 2011 and filed of record as Instrument Number 2011048434 on November 2, 2011 in the Lancaster County Register of Deeds Office (“Agreement”), regarding development of the Property in order to mitigate the adverse impact of the fraternity on the adjacent residential neighborhood and to provide a compatible development with the adjacent residential neighborhood.

III.

The City and Developer now desire to enter into this Amendment, to modify certain provisions in Agreement regarding the setback along the east property line of Lot 48, Block 1, University Park Addition and be assured that the Developer will develop the Property in a manner compatible with the adjacent residential neighborhood.

NOW THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. That Paragraph 2 of the Agreement is hereby deleted in its entirety and replaced with the following paragraph:

In consideration for the City rezoning the Property to R-6 Residential District, the Developer agrees that the development of the Property shall be subject to the following requirements:

- a. The east and south boundaries of the Property shall have a landscape buffer screen with (i) trees and shrubs from the ground to six (6) feet high or (ii) fence/wall as shown on Exhibit B and shrubs. The screen shall be a minimum of a 90 percent coverage along of the east and south lot lines of the Property.
- b. The Property's east yard setback will be fifteen (15) feet ("East Setback").
- c. The new Fraternity Building will be lowered to a grade elevation that is a minimum of one (1) foot lower than the existing fraternity building's finished floor elevation and as generally shown on the attached images (Exhibit A).
- d. The new parking lot will be lowered to a grade elevation that is a minimum of two (2) feet lower than the current and general elevation of the proposed parking lot footprint and as generally shown on the attached images (Exhibit A).
- e. The East Setback will not be improved with motor vehicle parking lot or with any new accessory building.
- f. The remaining Property's open space between the new Fraternity Building and the East Setback will not be improved with an expansion of the Fraternity House or motor vehicle parking lot for a term of twenty (20) years.
- g. Street trees will be planted along Holdrege St. and Idylwild Dr. spaced every 50 feet or as sited by the Parks & Recreation Department.
- h. No new permanent or temporary structures for active recreation are permitted in the East Setback or in a 20 feet wide area north of the south boundary of the Property.

- i. A 5 feet tall (measured from the North 37th Street neighbors side of the wall) painted or colored brick formed concrete wall shall be provided on or near the boundary line, in accordance with the attached drawing (Exhibit B).
- j. Items 2 a. through h. above shall not be amended by the Administrative Amendment process, but shall only be amended by submittal to and approval by the City Council.

2. That all provisions of the Agreement not expressly amended herein shall remain in full force and effect.

3. This Agreement, when executed by the parties hereto, shall be recorded by the City in the office of the Register of Deeds of Lancaster County, Nebraska, filling fees to be paid in advance by Developer.

IN WITNESS WHEREOF, the parties herein have executed this Amendment on the day and year set forth above.

KAPPA FOUNDATION, a nonprofit corporation

By: _____
 Roger Wehrbein, President

ATTEST:

CITY OF LINCOLN,
NEBRASKA a municipal
 corporation

 City Clerk

By: _____
 Chris Beutler, Mayor of Lincoln

STATE OF NEBRASKA)
) ss.
 COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by Roger Wehrbein, President of Kappa Foundation, a nonprofit corporation, on behalf of said nonprofit corporation.

 Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

Notary Public

Exhibit A

SINCLAIR **hille**
architects

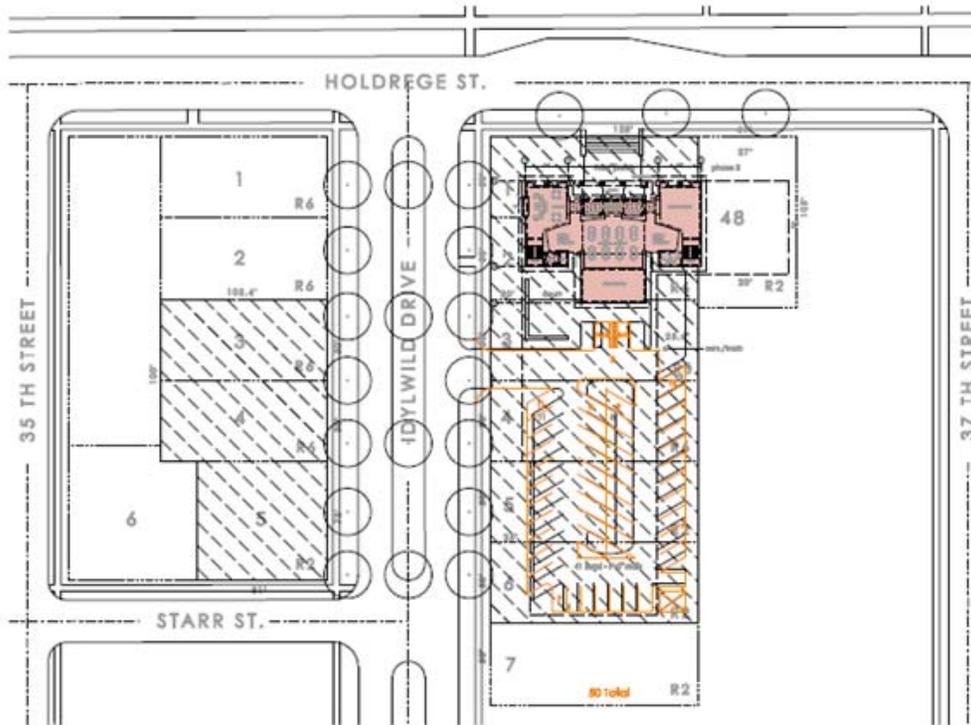


ALPHA GAMMA RHO - NEW FRATERNITY HOUSE
LINCOLN, NEBRASKA

ΑΓΡ

NURTURE ■ GROW ■ GIVE ■ REPEAT

ALPHA GAMMA RHO
Lincoln, Nebraska

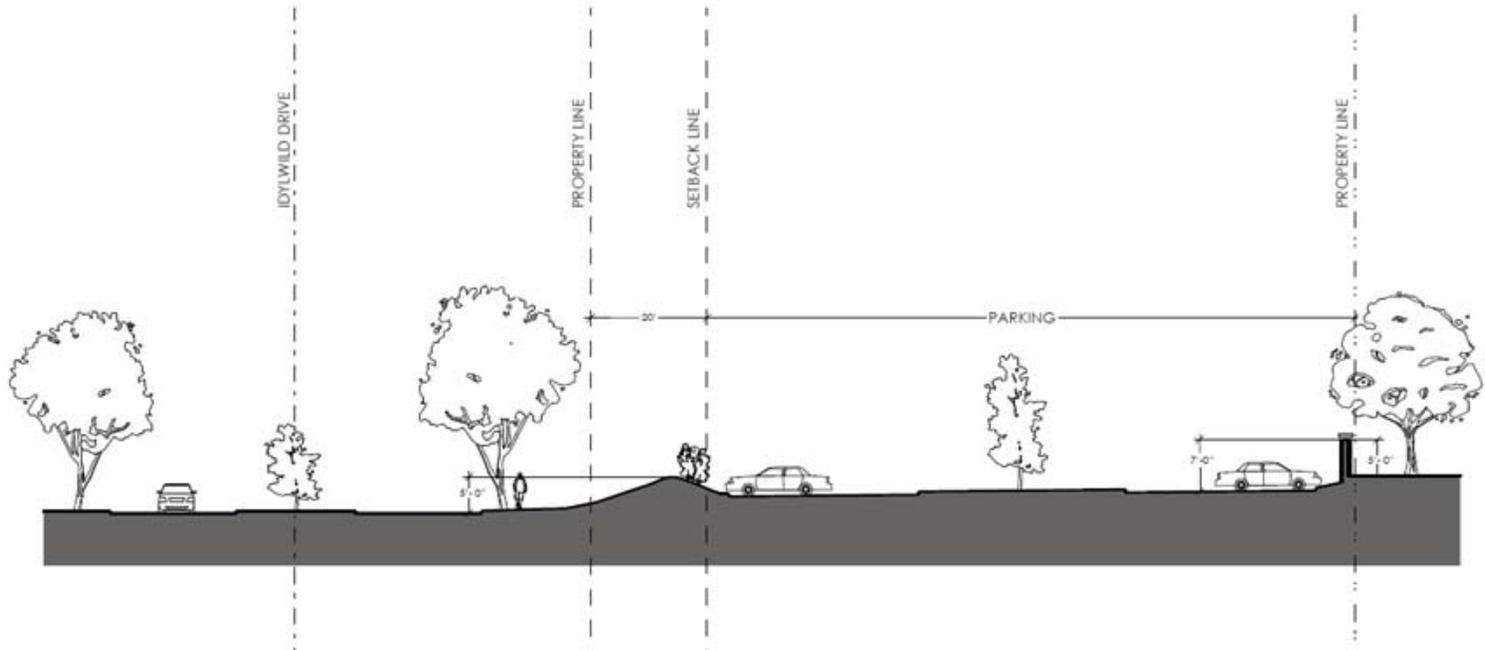


June 2011

AGP

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ALPHA GAMMA RHO
Lincoln, Nebraska



SITE SECTION THROUGH PARKING
September 8, 2011

AGP

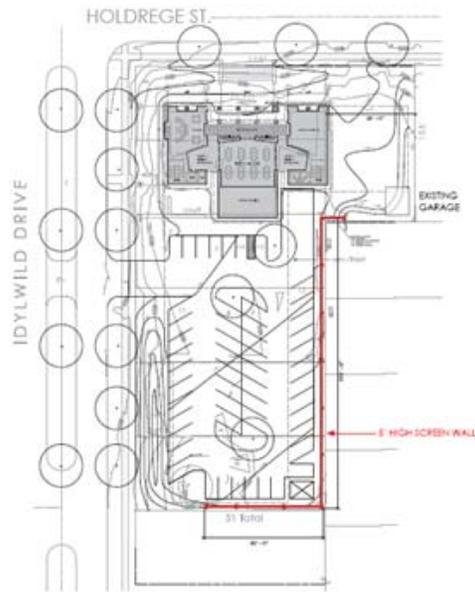
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Exhibit B



FORMED CONCRETE WALL

SINCLAIR **hills** architects



ATP
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