

CALLED MEETING
KINGSPORT BOARD OF ZONING APPEALS AGENDA

Thursday, August 23, 2012

Development Services Building - first floor, Bob Clear Conference Room

CALL TO ORDER – 12:00 P.M. NOON

INTRODUCTION / MEETING PROCEDURES

ADMINISTRATION OF OATH TO PERSONS WISHING TO TESTIFY

PUBLIC HEARING:

Case: 12-701-00005 – Property located at 859 Indian Trail Drive; Control Map 47P, Group A, Parcel 04.10 Requests a special exception use as provided in Sec. 114-207(d) in order to construct a movie theater.

INTERESTED PARTIES:

Owner: Greater Kingsport Family YMCA
Charlie Glass
1100 Franklin Square
Kingsport, TN 37664
(423) 247-9622

Applicant /Agent: Jessie Hensley
3700 Hemlock Park Drive
Kingsport, TN 37663
(423) 917-7687
Tricitygrading@gmail.com

Engineer/Architect: Unknown

ADJUDICATION OF CASE:

ADJOURNMENT:

River/Anno

River

Subdivision Labels

County Lines

Hydrography

Major Parks

Municipal Boundary

City Limits

Kingsport

Mt Carmel

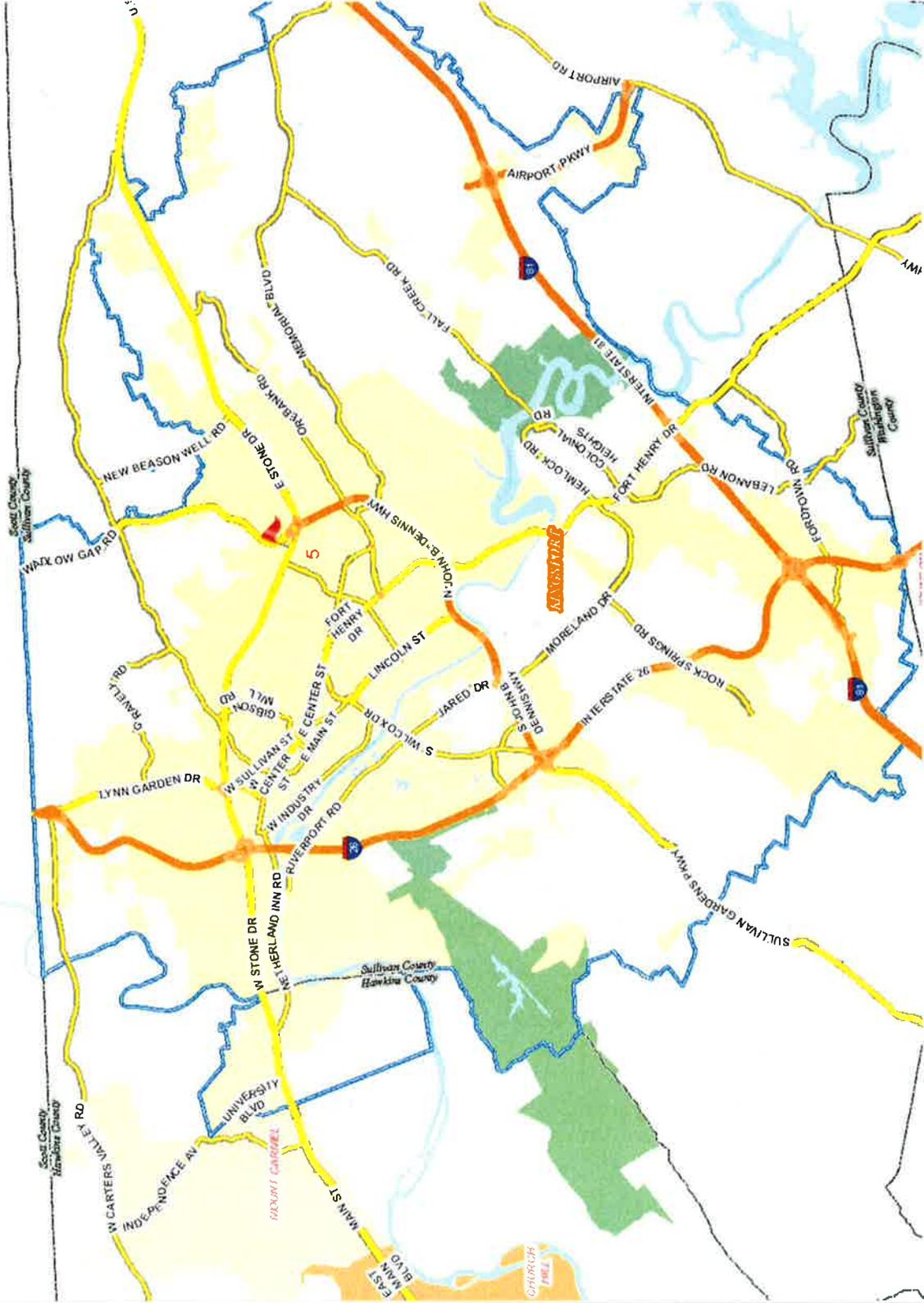
Church Hill

Johnson City

County Boundary



1:885 miles



Called BZA Meeting August 23, 2012

County

MEMORANDUM

TO: KINGSPOINT BOARD OF ZONING APPEALS
FROM: Karen B. Combs, PRINCIPAL PLANNER
DATE: July 23, 2012
RE: 859 Indian Trail Drive

The Board is asked to consider the following request:

Case: 12-701-00005 – Property located at 859 Indian Trail Drive; Control Map 47P, Group A, Parcel 04.10 Requests a special exception use as provided in Sec. 114-207(d) in order to construct a movie theater.

APPLICATION KINGSFORT BOARD OF ZONING APPEALS (BZA)

The application deadline is the 15th of the month prior to the month the case is to appear before the BZA. The BZA meeting is the first Thursday of every month (the meeting time, and location will be determined on the application deadline).

If you have questions filling out the BZA application, you may call the Kingsport Planning Division at 423-229-9485.

The following items must be completed:

- X • Property owner hand signature: *Charles W. Hensley, CEO, GREATER KINGSFORT FAMILY YMCA*
- Representative hand signature: *Jessie Hensley*
- Representative name, daytime phone number, mailing address including zip code, fax number, email. *Jessie Hensley, 3700 Hemlock Park Dr. Kingsport TN, 37663 (423) 914-7087 FacilityGrading@gmail.com*
- If different from above, the address of the property, which seeks a variance or special exception: *859 Indian Trail Dr. Kingsport TN,*
- Provide a copy of a map showing the property, which seeks a variance or special exception.
- The property tax map, group, parcel number: *map 47- P1A, Parcel 5*
- Requested action: *Special Exception zoning "Indoor Recreation"*
- Special exceptions require a letter addressing the rationale the Board will use for granting special exceptions (see reverse side).
- Fifty-dollar (\$50) application fee cash, or check made out to City of Kingsport.
- Note, the Board may ask the following questions: submit a detailed site plan illustrating request, dimensions of proposed structure, distances between the proposed structure and all property lines based upon a professional survey, or accurate self-measurement, gutter overhangs may need to be included as part of the variance, verify if lot coverage variance needed with dimensional variance, the alignment of the residential house with the adjacent houses 100-feet on both sides, carports should be open and guttered with an A-frame, the square footage of the proposed sign, the square footage of the existing sign, the building ground coverage.
- Review private deed restrictions (the City is not involved).

See reverse side

APPLICATION
Board of Zoning Appeals



APPLICANT INFORMATION:

Last Name GREATER KPT. FAMILY YMCA First _____ M.I. _____ Date _____
Street Address 1100 FRANKLIN SQ Apartment/Unit # _____
City KINGSPORT State TN ZIP 37664
Phone (423) 247-9622 E-mail Address _____

PROPERTY INFORMATION:

Tax Map Information Tax map: _____ Group: _____ Parcel: _____ Lot: _____
Street Address _____ Apartment/Unit # _____
Current Zone _____ Proposed Zone _____
Current Use _____ Proposed Use _____

REPRESENTATIVE INFORMATION:

Last Name Glass First Charles M.I. W Date _____
Street Address 1100 Franklin Square Apartment/Unit # _____
City Kingsport State TN ZIP 37664
Phone 423.247.9622 E-mail Address cglass@ymcakpt.org

REQUESTED ACTION:

DISCLAIMER AND SIGNATURE

By signing below I state that I have read and understand the conditions of this application and have been informed as to the location, date and time of the meeting in which the Board of Zoning Appeals will review my application. I further state that I am/we are the sole and legal owner(s) of the property described herein and that I am/we are appealing to the Board of Zoning Appeals.

Signature: Charles W. Glass

Date: 7/24/12

Signed before me on this 23rd day of July, 2012,
a notary public for the State of Tennessee
County of Sullivan

Notary Angela Renee Stuart

My Commission Expires _____

My Commission Expires
November 20, 2013



CITY PLANNING OFFICE

Received Date: 7/23/12 · App. is still incomplete

Received By: 

Application Fee Paid: 7/20/12

Board of Zoning Appeals Meeting Date: Called mtg.

Section of Applicable Code: 114-207(d)

Building/Zoning Administrator Signature: 

Date:

Completed Site Plans Received: NO

Previous requests or file numbers: None

Signature of City Planner: 

Date: 7/23/12

Jessie A. Hensley
3700 Hemlock Park Dr.
Kingsport TN, 37663
Tricitygrading@gmail.com
(423) 914-7687

July 15, 2012

Karen Combs, Planner
City of Kingsport
225 West Center St.
Kingsport, TN 37660

Dear Ms. Combs,

I, Jessie Hensley seek to construct a new 43,303 sqft. indoor recreational facility and associated infrastructure at 859 Indian Trail Drive in Kingsport Tennessee. Please accept this letter as an explanation of our rationale for application to the BZA for a special exception.

The new Marquee Cinema will meet or exceed the needs of Kingsport for a first class movie experience. This project will provide an economic stimulus to the surrounding vacant commercial properties and promote further growth. The location of this recreational facility is ideal for thousands of Kingsport residents who have access to the greenbelt to walk or bike to the facility.

Noise will not be a factor and traffic will be spread out based on peak usage at early afternoon and evening. There will be adequate parking on site with the required 523 spaces. A wetland buffer is located between projected facility and the Greenbelt which will minimize the impact of noise and light pollution. Since the property is presently zoned M-1, it is our belief that this exemption will allow us to develop the site more in line with the surrounding businesses, instead of allowing a scrap yard or manufacturing facility to locate in the middle of a retail business zone.

It is our belief that granting this exemption will benefit the city and surrounding property owners. Plans for the theater have been submitted to the City of Kingsport building department for review. Thank you for your consideration.

Sincerely,

Jessie A. Hensley
Project Developer

**Special Exception Worksheet
for**

**Case: 12-701-00005 – Property located at 859 Indian Trail Drive; Control Map 47,
Group A, Parcel 05.00** Requests a special exception use as provided in Sec. 114-207(d) in
order to construct a movie theater.

Standards for Special Exception Use Variances

A Special Exception allows a use of land that is not permitted in the district in which the property is placed. Because this type of relief is so significant, granting of a special exception requires the existence of an unnecessary hardship, which is demonstrated by showing that:

1. The property would be uniquely restricted from a reasonable use for the purposes permitted in that zone district.

The principle behind a special exception is that it is necessary because the property is so uniquely restrictive that it cannot be reasonably used as it is zoned. Therefore, a thorough review is needed to first establish that none of the uses currently permitted in the district are appropriate for the property. While it is true that financial considerations are not generally the subject of review for variances, this standard may be satisfied by a finding that the property would essentially be valueless if an attempt were made to develop it as zoned. Part of this review will require determining if the property can be reasonably used for any of the uses permitted in the district. This does not mean that the use has to be the most profitable, or the use proposed by the applicant. It only requires a finding that there is one or more uses permitted in the district which could reasonably be placed on the property.

2. The plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions.

This standard is generally similar to that for variances, particularly with respect to the necessity for having unique circumstances that are specific to a property and not related to the applicant's personal situation. The other important aspect is the requirement that the situation on the property not be common in the area. If conditions are common to the area, a special exception would not be appropriate because the area should be reviewed by the planning commission to determine if the zoning for the entire area should be changed. But that is the function of the planning commission and not that of the zoning board of appeals.

3. *The use would not alter the essential character of the area.*

Probably the most difficult aspect of this standard is determining what the essential character of an area is, and if the special exception is approved, what effect might the special exception have on that character.

What is the "area" affected by a use variance?

The "area" which may be affected by a special exception will depend on the nature of the request and the size of the property that is the subject of the requested special exception. For example, a small residential lot requesting a use variance for an office will affect a smaller area than a request on a large site for an intensive commercial use. One of the easiest ways to determine the essential character of an area is through a site visit to examine the area and see the various land uses that exist. In some cases the character may be evidenced simply by the dominance of one land use over any others. In others it may not be as obvious. For example, some areas may have a wide variety of uses, occupying different sizes of lots. Viewing the area may not directly lead to a conclusion as to the character of the area and may require some degree of judgment.

Another way to determine the character of an area and the possible effect of a special exception is to examine the community's master plan. The plan may clearly indicate the existing or intended character of an area. The BZA may also seek the advice of the planning commission to help interpret the master plan, or to provide guidance when there is no plan or if it is out-of-date. Any opinion of the commission is simply advice, and should be considered only as input to the BZA's deliberations. After determining the essential character, the next step is to evaluate whether or not approval of the special exception would alter that character. This decision might hinge on whether or not the proposed use variance may tip the scales in one direction or another. If an area appears to be in transition from a residential to commercial area, for example, a commercial use special exception may be appropriate. However, if the specific character of the area is unclear, a special exception may not be appropriate since it could tend to establish a specific character. This type of decision will require the exercise of discretion by members of the BZA, as assisted by staff and consultants.

4. *The problem is not self-created.*

This standard is essentially the same as that for variances. If the applicant created a particular situation that made a property essentially unusable as zoned, that applicant would not be entitled to relief by approval of a special exception. For example, if a property owner subdivides a large, residentially zoned property, leaving a corner lot as an isolated parcel, an argument that the parcel should only be used for nonresidential purposes could fail because the parcel was created by the direct action of the applicant.

5. *The other general requirements are met.*

As in the case of variances, an applicant must show that the special exception meets the state law requirements, that the spirit of the ordinance shall be observed, public safety secured and substantial justice done.

***** *FYI Use Variances and Rezonings - The Paragon Rule***

Understanding use variances was made more important by a 1996 decision of the Michigan Supreme Court, *Paragon Properties Company v City of Novi*, (452 Mich 568,

550 NW2d 772 (1996)) in which the court required a “final decision” of the municipality. Under the *Paragon* decision, it will not be deemed that a final decision has been rendered by the municipality until the property owner seeks a use variance from the Board of Zoning Appeals. The *Paragon* decision, therefore, requires submission of a use variance application following a rezoning request denial by the legislative body before any legal disputes may be brought before the court.

Under review by the Board of Zoning Appeals is a special exception to Section 114-207(d) to allow a movie theater as an indoor recreational facility. I have provided the Board with relevant sections of the code and have added emphasis to particular sections for your review.

Under definitions - *Club, private* means a building and facilities for social, educational or recreational purpose, generally open to members, but not primarily for profit or to render a service which is customarily carried on as a business. **The YMCA would fall under this definition and not a commercial use. The movie theater is for profit and therefore considered a commercial/business entity.**

In section 117-70 Limitation of Authority.

The board of zoning appeals shall not possess the jurisdiction to grant a variance to permit a use of any land, building or structure which is not permitted by this chapter in the zone in question.

*Though the Zoning administrator by signing the BZA application is stating that a movie theater is considered an indoor recreational facility; by a general definition it is considered as such. However, this Board must look **specifically within the current zoning code to decide if this use is what the author of the code intended.***

Planning staff has repeatedly stated that rezoning the property to a commercial zone is the appropriate action based upon the following:

In section 114-137.(5) - Uniform Regulations

(5) *Permitted and prohibited uses.* Only those uses specifically permitted or **substantially similar** to permitted uses are permitted in each zone or district, and all uses specifically prohibited or **substantially similar** to prohibited uses are prohibited.

In section 114-189. **Restrictions by type of zoning district.**

(a) Sections 114-190 through 114-209 provide specific requirements and restrictions for various zoning districts. For all districts so listed, where principal uses are specified, other **substantially similar uses shall also be deemed permitted uses.** For all districts so listed, where prohibited uses are listed, **substantially similar uses are also prohibited.**

Sec. 114-206 M-1 light manufacturing

(d) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the M-1 district as follows:

(1) Public utilities and public service uses and structures.

(2) Indoor recreational facilities **such as** tennis courts, racquet ball courts, gymnasiums, offices, etc.

(e) *Prohibited uses.* Uses prohibited in the M-1 district are as follows:

(1) Residential, **business as principal uses.**

Sections of code where these uses are defined differently:

Sec. 114-195.(c) R-3 low density apartment district:

(c) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the R-3 district as follows: nursing homes, rest homes, rehabilitation centers, hospitals, religious and charitable institutions, community centers (such as YMCA, etc.), day care nurseries, communication facilities.

Here a YMCA is defined as a community center, not a business.

Sec. 114-202. (d) B-1 Neighborhood business district.

(d) *Prohibited uses.* Uses prohibited in the B-1 district are as follows:

(1) Communitywide oriented retail and service uses such as department and discount stores, **theaters**, auto sales, warehousing, wholesaling, industry.

Here a theater is defined as a community wide oriented retail and service use.

Sec. 114-204 (a) (3) B-3 general business district.

(a) *Principal uses.* Principal uses and other substantially similar uses permitted in the B-3, general business district area as follows:

(1) Ambulance services; animal hospitals; antennas; antique shops; artist studios; automobile sales and services; automobile service stations; bakeries, retail and wholesale; boat sales; building materials and services; business services and supplies; catering services; convenience stores; eating and drinking establishments; equipment sales, service and rentals; financial institutions; fitness centers; food and beverage sales; funeral and internment services; hotels and motels; laboratories; maintenance and repair services; major and minor motor vehicle repair; manufactured and mobile home sales; off and on-premise alcohol sales; plant nurseries; offices; open air uses (garden supplies, lawn furniture, plant nurseries, playground equipment); pawn shops; personal improvement services; printing and publishing; recreation vehicle sales; research and development; restaurants; retail sales; shopping centers;

(2) Clubs and lodges; cultural institutions; community centers; institutions for human care; daycare centers; parking lots and structures; public facilities; meeting centers;

(3) **Commercial recreation and entertainment; park and recreation facilities; public and private campgrounds; RV parks; golf courses; theaters and auditoriums;**

Sec 114-247 – B-4P Planned Business District

Sec. 114-247. - Permitted uses.

All uses listed below and other substantially similar uses shall be deemed as permitted: ambulance services; animal hospitals; antique shops; artist studios; automobile sales and

services; automobile service stations; bakeries, retail and wholesale; boat sales; building materials and services; business services and supplies; private clubs and lodges; **commercial recreation and entertainment; community centers**; convenience stores; cultural institutions; day care centers; eating and drinking establishments; equipment sales, service and rental; financial institutions; fitness centers; food and beverage sales; funeral and interment services; golf courses; government uses; hotels and motels; laboratories; malls; manufactured and mobile home sales; meeting centers; offices; off- and on-premises alcohol sales; **park and recreation facilities**; pawn shops; personal improvement services; printing and publishing; public facilities; recreation vehicle sales; religious assembly; research and development; restaurants; retail sales; schools (public, private, trade); shopping centers; **theaters and auditoriums**; utilities; and welcome centers.

Sec. 114-462-464 Business Conference Center District.

Sec. 114-462. - Permitted principal uses.

The following principal uses are permitted which will ensure compatibility between the internal operations of the business conference center district and the character of the community at large and provide opportunities for employment, cultural and convention events:

- (1) Public or privately owned or operated buildings and uses, such as convention centers, conference centers, civic centers, auditoriums, **theaters, movie theaters**, meeting centers and other public gathering places.
- (2) Museums, art galleries and libraries.
- (3) Corporate headquarters, business and professional offices, training centers, colleges and business/trade schools, research laboratories, research and development facilities when not objectionable due to noise, odor, dust, smoke, vibration or other reasons, as determined by the planning commission.
- (4) Hotels, full service restaurants, provided that drive-in or drive-through windows are excluded.
- (5) Financial institutions, brokerages.

Sec. 114-464. - Special exceptions.

Certain uses may be permitted in the business conference center district upon the granting of a special exception by the board of zoning appeals:

- (1) Elderly and child day care, nursery schools and kindergartens, elderly day care.
- (2) Helistops and pay parking lots, when not objectionable due to noise, odor, dust, smoke, vibration or other reasons.
- (3) **Recreational facilities**, health clubs, golf courses, golf driving ranges, stadiums, and civic fairs.
- (4) Telecommunication facilities. Outside storage yards, trucks and equipment are prohibited.

(5) Hospital and health care centers.

Note: The petitioner has also applied for a rezoning from the planning commission. That process is still in review and is expected to be withdrawn pending a favorable outcome of the BZA application.

Combs, Karen

From: Tully, Lynn
Sent: Thursday, July 19, 2012 3:48 PM
To: Combs, Karen
Subject: FW: Rezoning on Indian Trail
Attachments: 2467_001.pdf

For your use...

Thanks!

Lynn Tully

Chanya L. Tully, AICP
Planning & Community Development Director



201 W Market Street
Kingsport, TN 37660
Ph: 423-229-9485
Lynn.Tully@KingsportTN.gov

From: Tully, Lynn
Sent: Tuesday, July 17, 2012 2:50 PM
To: 'Jessie Hensley'
Cc: Meredith, Jason; Weems, Ken; Fleming, Jeff; Cross, F. D. "Rack"
Subject: RE: Rezoning on Indian Trail

Sorry Jessie for the late reply – I've had other fires this morning. The following is a list of what is expected by close of business Friday unless otherwise specified, as per our conversation yesterday:

1. Completed application – Jessie, the ones we have need parcel data and we need to discuss which zone you will be asking for (B-3 or B4P for the Theater and a Multifamily zone for the apartments).
2. Completed Zoning Development Plan Application – I have attached a copy of the ZDP application to this email as well. It too needs to be completed.
3. Site Plan/Zoning Development Plan – Needs to show the portion of that parcel has been dedicated to the city in a prior action of the owner for wetland mitigation. The site plan shows development encroaching into the mitigation area. That will need to be adjusted prior to approval. See Section 114-104, City of Kingsport Zoning Code for Zoning Development Plan requirements. (What you gave us is more of a concept than the Zoning Development Plan required.)
4. Traffic Impact Study – Jessie we talked about this being available for the Planning Commission to consider as well. In order to evaluate the conclusions we need to send a copy to our transportation engineers by July 27th. We can review it via email copy if necessary.
5. Legal description of property to be zoned (each zone separately)
6. Show all easements on the property – Utilities etc.
7. Zoning application Fee – RECEIVED July 16, 2012
8. Zoning Development Plan Fee – Preliminary is \$100 and Final \$50 – I assume you want both at the same meeting so \$150 total would be due.

9. Letter of Introduction – Please include a letter stating your plans and intentions for the development including any information you find pertinent and advantageous to your development and the city (anticipated greenbelt connections etc.)

Things to consider when preparing your site plans –

1. There is a current MPO plan for this area, Reedy Creek Crossroads Area Plan (September 2008), which indicates that the area is appropriate for a linkage of parcels via a parallel roadway to the rear of the current parcels fronting Stone Drive. This roadway should consider provision of additional access points to the existing greenbelt along Reedy Creek. Further it recommends a connector roadway from Indian Trail Dr. to Reedy Creek Rd. This connection based on slope, may require more than typical Right-of-Way width or a slope easement for construction. I would advise you to show that connection and how it will work within the context of the larger street network.
2. Currently there is an ordinance requiring the construction of sidewalks on both sides of streets with new commercial development. Please note any
3. Previously approved grading permits and TDEC approvals for this site are not transferable and have since expired. New approvals will be necessary from the appropriate entities prior to engineering approval. TDEC requires the owner's signature and recognition of liability for their approval.

Your assigned Contact for rezoning is: Jason Meredith, Senior Planner, 423-224-2877, JasonMeredith@kingsporttn.gov
Your contact for Preliminary/Final zoning development plan review is: Ken Weems, Principal Planner, 423.229.9368, KenWeems@kingsporttn.gov

Rack Cross will continue to help you through general questions or concerns.

Sincerely,

Lynn Tully

Chanya L. Tully, AICP
Planning & Community Development Director



201 W. Market Street
Kingsport, TN 37660
Ph. 423-229-9485

Lynn.Tully@KingsportTN.gov

From: Jessie Hensley [<mailto:tricitygrading@gmail.com>]
Sent: Tuesday, July 17, 2012 10:03 AM
To: Tully, Lynn
Subject: Fwd: Rezoning on Indian Trail

Is there any way to get the list before 1:00? Ni have a meeting then and need to convey the information.

Thanks

Jessie

----- Forwarded message -----

From: **Fleming, Jeff**

Date: Monday, July 16, 2012

Subject: Rezoning on Indian Trail

To: Jessie Hensley <tricitygrading@gmail.com>, "Tully, Lynn" <lynntully@kingsporttn.gov>

Cc: johnecampbell@kingsporttn.gov, dennisphillips@kingsporttn.gov

Jessie,

Just to confirm our conversation today that we will accept your rezoning application 1 day late. Lynn Tully will provide you with a list of the required items and deadlines for the application to proceed to planning commission in August.

Remember to take into consideration the public street connecting Indian Trail to Executive Park.

Jeff

Sent from my Verizon Wireless 4G LTE DROID

--

Jessie Hensley

Tri City Grading
285 Brookside Dr.
Kingsport TN, 37663

(423) 914-7687
tricitygrading@gmail.com

Combs, Karen

From: Tully, Lynn
Sent: Thursday, July 19, 2012 3:47 PM
To: Jessie Hensley (tricitygrading@gmail.com)
Cc: Combs, Karen; Fleming, Jeff
Subject: BZA Application

Jessie,

Please get the application and other materials for BZA to us ASAP. We are working to get a called meeting date for your request per our meeting with the Mayor.

Your contact for the BZA hearing is: Karen Combs, Principal Planner, 423-224-2482, KarenCombs@KingsportTN.gov

Thanks!

Lynn Tully

Chanya L. Tully, AICP
Planning & Community Development Director



201 W. Market Street
Kingsport, TN 37660
Ph: 423-229-9485

LynnTully@KingsportTN.gov



CITY OF KINGSPORT, TENNESSEE

July 10, 2012

Ryan Rabah, VP of Leasing
KBM Commercial Properties, LLC
1550 Highway 126
Bristol, TN 37620

Dear Mr. Rabah,

Thanks for your interest and investment in Kingsport.

Based on your recent submittal for a building permit, I am writing to make you aware of some interim steps necessary prior to receipt of an approved building permit. We would all be pleased with the success of a development on your site and this information should smooth the process. Based on the site plan attached, the development includes:

Tax Map Parcel 047P A 004.05 – Approximately 9.7 acres (Tazewell Property Subdivision)

Tax Map Parcel 047P A 004.10 – Approximately 19 acres (Tazewell Property Subdivision)

It is assumed that all public road access will be from the existing Indian Trail Drive, Executive Park Blvd, or a newly constructed street connecting the two. The city has previously indicated a willingness to participate in funding this connector street. Any interior roadways or internal access would remain private and be the responsibility of the developer. As a point of information, it appears that the 19 acre property extends to American Way, however the conceptual site plan does not continue to that portion of the parcel. If that is to be considered for future development it should be shown on the site plan. Further, a portion of that parcel has been dedicated to the city in a prior action of the owner for wetland mitigation. The site plan shows development encroaching into the mitigation area. That will need to be adjusted prior to approval.

You may access Kingsport's Zoning Ordinance & Municipal Code online at:
<http://www.municode.com/Library/TN/Kingsport/>

The process of Rezoning and Zoning Development Plan approval is reviewed by the Planning Commission and Board of Mayor and Aldermen and may run concurrently. The process of approval as a Special Exception Use by the Board of Zoning Appeals (BZA) will also require Subdivision approval and review by the Planning Commission based on the number of lots shown on the site plan. Special Exception uses are tied to the individual parcel for which they are granted and therefore subdivision approval will be necessary prior to the BZA hearing in order to tie down the parcel for which the exception is being granted.

Items to Note

1. There is a current MPO plan for this area, *Reedy Creek Crossroads Area Plan* (September 2008), which indicates that the area is appropriate for a linkage of parcels via a parallel roadway to the rear of the current parcels fronting Stone Drive. This roadway



should consider provision of additional access points to the existing greenbelt along Reedy Creek. Further it recommends a connector roadway from Indian Trail Dr. to Reedy Creek Rd. This connection based on slope, may require more than typical Right-of-Way width or a slope easement for construction.

2. Currently there is an ordinance requiring the construction of sidewalks on both sides of streets with new commercial development.
3. Based on the anticipated traffic generated by this proposed development the Planning Commission or BZA is likely to request a review of the Traffic Impact Study.
4. The Board of Zoning Appeals previously heard a special exception request as an recreation use for this parcel and it was approved as a YMCA facility.
5. Previously approved grading permits and TDEC approvals for this site are not transferable and have since expired. New approvals will be necessary from the appropriate entities prior to engineering approval. TDEC requires the owner's signature and recognition of liability for their approval.

Your assigned Contact for rezoning, subdivision & zoning development plan review is:
Rack Cross, 423.229.9492 RackCross@KingsportTN.gov .

Zoning or Special Exception Use

Both Parcels involved are zoned M-1R Light Industrial District and require rezoning to B-3 for the theater and R-3 for the Apartments, or at a minimum, a Special Use Exception to the M-1R uses for the theater and a rezoning to R-3 for the Apartments.

A rezoning request may be submitted by the 15th of any month and it will be considered by the Planning Commission on the 3rd Thursday of the following month. Subsequently, a public notice must be published in the newspaper and the rezoning request must be approved by the Board of Mayor and Aldermen (BMA) on 2 separate readings. The BMA meets twice monthly.

The total timeframe from original submission of the rezoning request to the effective date is approximately 90 days.

A Special Exception Use request may be submitted by the 15th of any month and it will be considered by the Board of Zoning Appeals on the 1st Thursday of the following month. The Special Exception approval is final upon the decision of the BZA and any appeals are heard in circuit court. Because the exception use is tied to a parcel in perpetuity we must also have an approved subdivision plat delineating the parcel being considered.

Subdivision

Since the exception is a BZA action, a subdivision plat will be required for hearing. If other outparcels or freestanding parcels are desired by the developer, then they must be identified as well. Each individual parcel must be provided with access to public road frontage and public utilities (extended at the developer's expense or bonded for completion).

The typical subdivision process requires a preliminary plat approved by the Planning Commission, followed by the developer's submission of construction plans to the City Engineer, followed by a final plat approved by the Planning Commission. As with rezoning, a plat must be submitted on the 15th day of any month to be considered by the Planning Commission on the 3rd Thursday of the following month.

The total timeframe for Planning Commission approval of a preliminary & final subdivision plat is approximately 90 days (which includes Engineering Department review of construction plans, and installation of the required utilities by the developer). The process can be expedited by as much as 45 days by combining several of these steps at one meeting. This requires seamless coordination with the City Engineer and relatively impeccable construction plans.

Zoning Development Plan

Assuming the development will include multiple principal structures (apartments specifically), then a zoning development plan is required to be considered by the Planning Commission.

Requirements for information shown on the ZDP are outlined in our zoning regulations referenced above. Please be aware that several utility lines bisect these properties and the properties include wetlands and both floodway and flood fringe areas according to the most recent FEMA maps.

These items must be indicated on the plan and appropriate consideration given to siting the buildings. In addition, the City of Kingsport has recently created a storm water utility and greater scrutiny is being applied to placement of discharge areas for storm water conveyances. A preliminary/final zoning development plan can be approved at one meeting of the Planning Commission. Again, the plan must be submitted on the 15th of any month and considered on the 3rd Thursday of the following month.

The estimated time required for Zoning Development Plan review is approximately 30 days and may run concurrently with and contingent upon the rezoning request(s).

Following Public Approvals

Assuming that a complete development, construction & traffic impact package is submitted for review following the approved rezoning or use exception, it is reasonable to expect that you could be ready for construction within 90 days.

Building Codes, Fire Codes & Signs

The City of Kingsport follows the 2006 Standard Building Code and Fire Prevention Code. Plans review requires two to three weeks. (Contact: Dee Morgan, Senior Building Inspector, DeeMorgan@KingsportTN.gov).

Building Construction in the Flood Fringe necessitates special approvals; please contact Dee Morgan regarding additional certification letters required.

Note that all fire lines, including those underground, MUST be installed by a licensed and certified fire sprinkler contractor. (Contact: Robert Sluss, Fire Marshal RobertSluss@KingsportTN.gov)

Traffic Signal – Tim Elsea, P.E., Traffic Engineer TimElsea@KingsportTN.gov

Installation of traffic signal(s) or other traffic upgrades will be the responsibility of the developer. Based on the size of the proposed development, it is reasonable to expect some improvements to be recommended by the traffic impact study. TDOT requires an "opening day" traffic count for subsequent signals.

A Traffic Impact Study is required for review by the city and state departments of transportation. Specifications are attached. Review of the TIS requires approximately 30 days. (Contact: tim Elsea, Traffic Engineering Manager)

Engineering – Hank Clabaugh, P.E., Civil Engineer HankClabaugh@KingsportTN.gov

Water: Public water service is available and of adequate size to serve the property. The current lines cross the site and those easements must be indicated on the plans. Water taps/meters must be located on public ROW. Backflow prevention requirements are in place and hotboxes are required.

Sewer: There is an existing public sewer line crossing to the site. It is adequately sized to accommodate the proposed development. Extensions of the sewer line are the responsibility of the developer. All adjacent parcels are already served, however the additional parcels proposed will require extension and possibly a need for excess capacity factored into the sewer design.

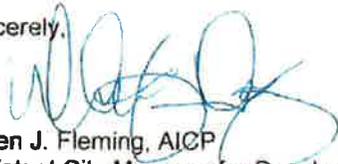
Stormwater Pollution Prevention Plan is required accommodating a 10-year storm event.

Electric/Gas/Telephone/Cable

Electric, gas and telephone are private companies. We have confirmed that services are available and adequate to serve the proposed development, but coordination with private agencies would be necessary.

If you have further questions, as always feel free to contact me at 423.229.9381 or JeffFleming@KingsportTN.gov.

Sincerely,



Tilden J. Fleming, AICP
Assistant City Manager for Development

Cc: Jessie Hensley tricitygrading@gmail.com
Lynn Tully, City of Kingsport
Jeanette Scalf, City of Kingsport