

Town of Indian Trail



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PLANNING AND DEVELOPMENT DEPARTMENT BOARD OF ADJUSTMENT MINUTES

June 25, 2015

06:30 P.M.

Call to Order

Chair Takah called the meeting to order at 6:30pm.

Roll Call The following members of the governing body were present:

Board Members: Tripp Melton, Daniel Takah, Shirley Howe, and Christopher Chopelas.

Members Present but not Voting: Patrick O'Connor.

not Voting:

Absent: Tim Rogers, Robert Thurbon, Dr. Shamir Ally, and Pam Good-Board Secretary.

Staff Members: Kevin Icard-Senior Planner, Aaron Lay-Subst. Town Attorney, and Kelly Weston-Subst. Board Secretary

Approval of Minutes - May 28, 2015 Member Melton made a motion to approve the minutes, seconded by Member Chopelas. Approval was unanimous.

Public Hearings- Motion to open by Member O'Connor, seconded by Member Howe. Approval was unanimous.

Chair Takah read the fairness statement for the public record and proceeded to swear in persons who had signed up to speak as well as Staff.

Staff Kevin Icard presented the following cases:

a) SUP2015-003 Moser Group Outdoor Storage: 320 Unionville-Indian Trail Road, the Moser Group would like to create a Boat & RV Storage Lot on the two parcels of land. The property is zoned RBD.

Project Summary:

The applicant is requesting a Special Use Permit (SUP) to allow for a Boat and RV Storage Facility at 320 Unionville-Indian Trail Road. Currently, the two lots contain the now closed Farmer & Daughter Produce Stand and a vacant lot. A Boat and RV Storage Facility is regulated in section 520.020 of the Unified Development Ordinance (UDO), which requires an SUP in Regional Business District.

Outside Agency Comments There were no comments or issues identified by outside agencies.

Plan Consistency The subject property is located within the US-74 Corridor West Plan of the Comprehensive Plan. This corridor is the regional economic engine in Indian Trail and the surrounding municipalities in Union County. This area provides numerous essential services to the residences of Indian Trail. Based on analysis of this use, Staff is of the opinion that the proposed use is in harmony with the surrounding area based on the following goal:

Economic Development Goal No. 1: *Create a more balanced tax base by promoting the development of office parks, businesses, retail centers and industrial parks. Promote a diverse local economy that will support varied employment opportunities.*

The Town's Comprehensive Plan shows that land as being designated as mixed-use which is a similar category as the Wal-Mart shopping center development. Maps were shown of the surrounding area.

Under **UDO Section 360.080**, the Board of Adjustment, when considering whether to approve an application for a special use permit, shall review and evaluate the following:

1. **Whether the application is complete.**
 - a. Staff is of the opinion that the application for SUP2015-003 is complete.
2. **The Board will consider whether the application complies with all of the applicable requirements of this ordinance.**
 - a. As per the stated conditions of this special use permit, staff is of the opinion that SUP 2015-003 is in compliance with the requirements set forth by the Unified Development Ordinance (UDO).
3. **If the Board of Adjustment concludes that all such requirements are met, it will issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in UDO Section 360.030.** Such a motion will propose specific findings, based upon the evidence submitted, justifying such a conclusion.

Under **UDO Section 360.030**, the Board of Adjustment must make these required considerations of public health, safety, and welfare. The Board of Adjustment's authority in the review of this special use permit application is broad and the Board may approve with conditions if it concludes, based upon the information submitted at the hearing, that the proposed development will:

1. Not materially endanger the public health or safety; and
2. Not substantially injure the value of adjoining or abutting property; and
3. Be in harmony with the area in which it is to be located; and
4. Be in general conformity with the Town of Indian Trail Comprehensive Plan and other adopted plans.

If one of these findings cannot be made, then the Board must move to deny the special use permit request, stating for the record why the Board has decided to do so.

Recommendation If the Board is of the opinion that the above required findings can be made to approve the project, Staff recommends the site be subject to the following conditions, along with the Board's approval of the special use permit:

1. The site plan provided is conceptual and subject to change; for the property will go through a full review process and meet all requirements of the Unified Development Ordinance; and
2. Any trees that are considered a heritage tree, if removed, will be mitigated; and
3. The curb and gutter located along Unionville-Indian Trail Road that currently has the second driveway entrance will be removed and replaced with standard curb and gutter to match what is existing; and
4. The internal circulation area shall be improved with asphalt, a minimum of eighteen feet (18) feet in width, as shown on the submitted site plan; and
5. No landscaping material is allowed to be stored on site (i.e. stone, mulch, sand, dirt, trees, shrubs, etc.)
6. No storage containers (i.e. PODS or Sea Containers of any size) are allowed to be stored on site; and
7. No portal offices may be located on site; and
8. No one may operate a business out of this site; and
9. The site is not allowed to store any vehicles which may constitute as junk or salvaged; and

10. Prior to final zoning compliance; the owner shall recombine the two parcels through the Town's Subdivision process; and
11. It is prohibited for an individual to sleep overnight in a recreational vehicle onsite.

Board Discussion:

Staff Icard explained that businesses are required to have zoning verification, which offers layer of protection. A person would be able to notice if a business is operating there.

Member Howe asked for clarification for the conceptual plan. Staff Icard did so.

Member Howe mentioned that there was no mention of lighting for the site. Staff Icard answered that the applicant was not planning on having lighting on the site and it is not required but there is street lighting.

Staff Icard stated that this is a first site plan in which necessary money for storm water hasn't been included. Discussion followed regarding fencing, landscaping buffer, and the monitoring of traffic entering and exiting the site. Staff Icard addressed each issue.

Having heard all of the evidence and arguments presented at the hearing, The Board of Adjustment filled out the Finding of Facts worksheets.

- a. **Whether the application is complete:** Motion to approve by Member Chopelas. Seconded by Member O'Connor. Vote was unanimous.
 - b. **The Application complies with all the applicable requirements of the ordinance:** Motion to approve with revised conditions by Member Melton. Seconded by Member Chopelas. Vote was unanimous.
1. **Not materially endanger the public health or safety;**
Member Chopelas made the motion that it does not endanger the public health and safety will not be materially endangered due to the fact that the property will be properly secured with fencing. There will be sufficient lighting for public safety and the security system that will be installed will track who is entering and exiting the property at all times. Motion seconded by Member Melton. Vote for approval was unanimous.
 2. **Not substantially injure the value of adjoining or abutting property;**
The proposed use will not injure the value of adjoining or abutting properties as stated in the May 8, 2015 impact analysis produced by Morrison Appraisal, Inc.
Motion to accept by Member Melton. Seconded by Member Chopelas. Vote for approval was unanimous.
 3. **Be in harmony with the area in which it is to be located;**
The subject site is located within the US-74 West Corridor of the Comprehensive Plan. The board concluded that the use is in harmony with the other automotive uses in the area and the fact that the adjacent property is a residential mini-warehouse use with outside vehicle storage.
Motion to approve by Member Chopelas. Seconded by Member O'Connor. Vote for approval was unanimous.
 4. **Be in general conformity with the Town of Indian Trail Comprehensive Plan or other adopted plans.**
The proposed use will be in general conformity with the Town of Indian Trail Comprehensive Plan and other adopted plans based on the analysis within the Town staff report and based on conformity with the following Comprehensive Plan goals. Motion to approve by Member Melton. Seconded by Member Howe. Vote to approve was unanimous.
 - **Economic Development Goal No. 2:** *Create a more balanced tax base by promoting the development of office parks, businesses, retail centers and industrial parks. Promote a diverse*

local economy that will support varied employment opportunities.

Storage facilities like this provide a place that is convenient to store boats, RVs and miscellaneous equipment in a safe and secure environment that is regulated and controlled.

Chair Takah asked Pat Quinn if he agreed with the conditions. Mr. Quinn answered in the affirmative.

Motion to approve SUP2015-003 with the draft conditions as presented by Staff was made by Member O'Connor, seconded by Member Melton. The vote was unanimous.

b) SUP2015-004 Pristine Auto Sales: 4004 D Sardis Church Road, Scott Garera with Pristine Auto Sales is requesting the permit to allow for an auto sales business in a multi-tenant building. The Property is zoned RBD.

Project Summary

The applicant is requesting a Special Use Permit (SUP) to allow for their business to continue operations at 4004 D Sardis Church Road. The applicant has been at this location since 2010, at that time they were classified as internet only auto sales and auto repair with no outdoor display. However; within the past few years the applicant started to display vehicles for sale in the parking lot. This request is a result from a notice of violation sent for operating without a SUP. The business is classified as Light Equipment Sales/Rental (Retail) & auto repair in section 520.020 of the Unified Development Ordinance (UDO), which requires an SUP when located in a multi-tenant building.

Outside Agency Comments There were no comments or issues identified by outside agencies.

Plan Consistency The subject property is located within the US-74 East Corridor Plan of the Comprehensive Plan. For purpose of the Comprehensive Plan analysis, this property is classified as existing office which supports; retail, service, sales, repair and flex warehousing space. This corridor provides a direct connection between some of the busiest portions of the state and serves as a gateway to municipalities in the western portion of Union County. Staff is of the opinion that the proposed use is in harmony with the surrounding area based on the following goals:

- **Land Use and Housing Goal No. 1:** *Promote a mix of different types of land uses within each village and avoid potential land use conflicts between neighboring properties and surrounding municipalities.*
- **Economic Development Goal No. 2:** *Create a more balanced tax base by promoting the development of office parks, businesses, retail centers and industrial parks. Promote a diverse local economy that will support varied employment opportunities.*

The Sardis Church Business Park provides a wide range of goods and services to the citizens of Indian Trail. Specifically, Pristine Auto Sales has proven that they have a business model that has worked for the past 5 years at this location. They are providing a service for individuals that are looking for vehicles without having to visit the larger dealerships in the area.

- a. As per the stated conditions of this special use permit, staff is of the opinion that SUP 2015-004 is in compliance with the requirements set forth by the Unified Development Ordinance (UDO).

Under **UDO Section 360.030**, the Board of Adjustment must make these required considerations of public health, safety, and welfare. The Board of Adjustment's authority in the review of this special use permit application is broad and the Board may approve with conditions if it concludes, based upon the information submitted at the hearing, that the proposed development will:

1. **Not materially endanger the public health or safety; and**
2. **Not substantially injure the value of adjoining or abutting property; and**
3. **Be in harmony with the area in which it is to be located; and**
4. **Be in general conformity with the Town of Indian Trail Comprehensive Plan and other adopted plans.**

Recommendation If the Board is of the opinion that the above required findings can be made to approve the project, Staff recommends the site be subject to the following conditions, along with the Board's approval of the special use permit:

1. The outdoor storage of automobile parts and other materials is permitted prohibited; and
2. The outdoor servicing of vehicles is allowed exterior of the building prohibited; and
3. Applicant will install additional low growing landscaping along Sardis Church Road; and.
4. The applicant will re-stripe the parking lot so that the display spaces are properly marked.

Board discussion followed.

Chair Takah questioned Mr. Garera if he agreed to the added condition as well as the 4 conditions. Mr. Garera agreed.

A motion was made by Member Chopelas to add Condition 5 that the vehicles would be parked inside the building every night. Motion was seconded by Member Melton. Vote to add Condition 5 was unanimous.

Having heard all of the evidence and arguments presented at the hearing, The Board of Adjustment filled out the Finding of Facts worksheets

- a. **Whether the application is complete:** Motion to approve by Member Howe. Seconded by Member Chopelas. Vote was unanimous.
 - b. **The Application complies with all the applicable requirements of the ordinance:** Motion to approve with revised conditions by Member O'Connor. Seconded by Member Melton. Vote was unanimous.
1. **Not materially endanger the public health or safety;**
The Board determined that the public health and safety will not be materially endangered due to the fact that the business has a limited number of vehicles on the lot and the fact that the vehicles are placed inside the building each night; and
Motion by Member Chopelas. Seconded by Member Melton. Vote was unanimous.
 2. **Not substantially injure the value of adjoining or abutting property;**
The proposed use will not injure the value of adjoining or abutting properties as stated in the May 14, 2015 impact analysis produced by Morrison Appraisal, Inc.; and
Motion by Member Howe. Seconded by Member Chopelas. Vote was unanimous.
 3. **Be in harmony with the area in which it is to be located;**
The subject site is located within the US-74 East Corridor of the Comprehensive Plan. The board concluded that the use is in harmony with the other commercial uses in the area based on the evidence presented by staff and the applicant; and
Motion by Member Chopelas. Seconded by Member O'Connor. Vote was unanimous.
 4. **Be in general conformity with the Town of Indian Trail Comprehensive Plan or other adopted plans.**
The proposed use will be in general conformity with the Town of Indian Trail Comprehensive Plan and other adopted plans based on the analysis within the Town staff report and based on conformity with the following

Comprehensive Plan goals: Motion by Member Melton. Seconded by Member Chopelas. Vote was unanimous.

Motion to approve SUP2015-004 with draft conditions and added 5th condition by Member Chopelas. Seconded by Melton. Vote to approve was unanimous.

Other Business

Staff Icard presented the board with updated UDO inserts.

Adjournment

Motion to Adjourn made by Member Howe, seconded by Member Chopelas. Vote was unanimous. Meeting adjourned at 7:55pm.

Chairman:

Secretary:

DRAFT