



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

October 29, 2002

Lakeridge Development, LLC
%Larry Bottenberg
2350 N. Maize Rd., No. 300
Wichita, KS 67205

RE: BZA 2002-00061 – Appeal of an administrative interpretation by the Zoning Administrator dated August 22, 2002, regarding Recreation and Entertainment, Indoor (Dickinson Theater) for DP-104, Oak Cliff Estates Community Unit Plan. Generally located at the northwest corner of Maple and Maize Road.

Dear Ladies and Gentlemen:

The above-referenced appeal was heard by the Board of Zoning Appeal on Tuesday, October 22, 2002. The official action of the Board was to uphold the interpretation of the Zoning Administrator. Enclosed is an official Resolution and findings for the decision. Unless this action is appealed to District Court within 30 days of the hearing, the action of the BZA will be considered final.

If you have any questions concerning this matter, please contact our office at 268-4421.

Sincerely,

Scott Knebel
BZA Assistant Secretary

SK/rs

Cc: Austin Miller, Inc., %Tim Austin, 142 N. Emporia, Wichita, KS 67202
Bill DeMoss, 10507 W. Texas, Wichita, KS 67209
Kelly L. Hopkins, 10505 W. Texas, Wichita, KS 67209
Vern Lambert, 812 N. Waco Ave, Wichita, KS 67203
Ferris Consulting, %Greg Ferris, P.O. Box 573, Wichita, KS 67201
Don Hall, 120 S. Maize Rd., #9, Wichita, KS 67209

City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

T 316.268.4421 F 316.268.4390

www.wichitagov.org

Darrell Schriver, 11209 W. Douglas, Wichita, KS 67209

Vern Imes, 6654 N. Hillside, Wichita, KS 67219

Dana L. Brown, D.A.B. V, E-mailed

Bob Martz, City Council, District V, Mail Stop 1-13

Kurt Schroeder, OCI, Mail Stop 1-72

J. R. Cox, OCI, Mail Stop 1-72

Joe Lang, First Assistant. City Attorney, Mail Stop 1-132

Sharon Dickgrafe, Assistant, City Attorney, Mail Stop 1-132

BZA RESOLUTION NO. 2002-00061

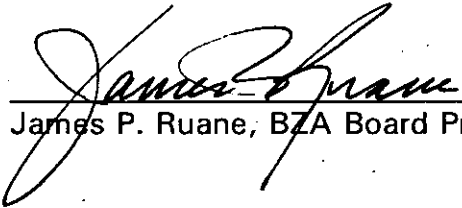
**RESOLUTION TO AFFIRM THE DECISION OF THE
ZONING ADMINISTRATOR**

HAVING CONSIDERED THE ENTIRE RECORD REGARDING THIS MATTER AND HAVING HEARD THE EVIDENCE AS PRESENTED TO THE BOARD HERE TODAY, THE BOARD MAKES THE FOLLOWING FINDINGS:

1. That the Board of Zoning Appeals has jurisdiction to hear this appeal, pursuant to K.S.A. 12-759(d) and Section 2.12.590 of the Code of the City of Wichita, Kansas;
2. That the Board makes the following finds of fact:
 - a) That the Zoning Administrator, pursuant to Article V, Sec. H (1) of the Wichita-Sedgwick County Zoning Code, had the authority to make the interpretation of the zoning code issued on August 22, 2002.
 - b) That the language of the CUP (DP-104) limits the use of the parcel at issue to those proposed by the express language of the CUP.
 - c) The interpretation made by Kurt Schroeder was supported by the language contained in Wichita-Sedgwick County Unified Zoning Code and the express language of the CUP defining the allowed uses.
 - d) The proposed use of the parcels as an indoor theater is not a similar or less intensive use than those allowed by the express language of the CUP.
 - e) The restrictive covenants for adjacent property do not provide sufficient mitigation for any adverse impacts caused by the proposed use of the property.
3. The Board further finds that the interpretation of the Zoning Administrator as set forth in his letter of August 22, 2002, was reasonable and is supported by the evidence presented at this hearing.
4. The Board further finds that the appellant has not met his burden of proof to show that the interpretation was in error.

THEREFORE, BASED UPON THE FOREGOING, THE BOARD RESOLVES THAT THE INTERPRETATION OF THE ZONING ADMINISTRATOR HEREIN BE AFFIRMED.

ADOPTED AT WICHITA, KANSAS, this 22ND DAY of OCTOBER, 2002.


James P. Ruane, BZA Board President

ATTEST:


Scott Knebel, BZA Secretary