

APPLICATION & CHECKLIST – ZONING CHANGE

CITY OF KYLE

Zoning: ASIFALI KAROWALIA

(Name of Owner)

9/25/2017

(Submittal Date)

OCT 06 2017

INSTRUCTIONS:

Z-17-019

PLANNING DEPARTMENT

- Fill out the following application and checklist completely prior to submission.
- Place a check mark on each line when you have complied with that item.
- Use the most current application from the City's website at www.cityofkyle.com or at City Hall. City ordinances can be obtained from the City of Kyle.

REQUIRED ITEMS FOR SUBMITTAL PACKAGE:

The following items are required to be submitted to the Planning Department in order for the Zoning Application to be accepted.

☒ 1. Completed application form with owner's original signature.

☒ 2. Letter explaining the reason for the request.

☒ 3. Application fee: \$428.06, plus \$3.62 per acre or portion thereof.

Newspaper Publication Fee: \$190.21

+ sign notice fee \$85.00

Total Fee: \$ 727.27

☒ 4. A map or plat showing the area being proposed for rezoning.

☐ 5. A clear and legible copy of field notes (metes and bounds) describing the tract (when not a subdivided lot).

☒ 6. Certified Tax certificates: County School City

☒ 7. Copy of Deed showing current ownership.

*** A submittal meeting is required. Please contact Debbie Guerra at (512) 262-3959 to schedule an appointment.

1. Zoning Request:

Current Zoning Classification: A (Agriculture)

Proposed Zoning Classification: R-3-3 (Apartment Residential), RS (Retail Services)

Proposed Use of the Property: Apartments and Retail

Acreage/Sq. Ft. of Zoning Change: 6.615 Acres

2. Address and Legal Description:

Provide certified field notes describing the property being proposed for rezoning.

Provide complete information on the location of the property being proposed for rezoning.

Street Address: 1001 Windyhill Rd, 1003 Windyhill Rd

Subdivision Name/Lot & Block Nos.: GEORGIA LEA SUB, BLOCK A, LOT 4, ACRES 5.051

ROSY PEACH SUBD LOT 1 BLK A 1.564 AC

Property Recording Information: ☒ Hays County

Volume/Cabinet No. 4562 and 4518

Page/Slide No. 32 and 145

3. Ownership Information:

Name of Property Owner(s): ASIFALI KAROWALIA

(If property ownership is in the name of a partnership, corporation, joint venture, trust or other entity, please list the official name of the entity and the name of the managing partner.)

Address of Owner: 1095 WINDYHILL RD, KYLE TX 78640

Phone Number: 713-261-4180

Fax Number:

Email Number: MIRANCHOMEATMARKET@GMAIL.COM

I hereby request that my property, as described above, be considered for rezoning:

Signed:

Date:

9/25/17

4. Agent Information:

If an agent is representing the owner of the property, please complete the following information:

Agent's Name: AFZAAL KHAN

(AR & AR, LLC)

Agent's Address: PO BOX 270184

AUSTIN, TX 78727

Agent's Phone Number: (512) 712-0071

Agent's Fax Number:

Agent's Mobile Number:

Agent's Email Number: khanah@hotmail.com

I hereby authorize the person named above to act as my agent in processing this application before the Planning and Zoning Commission and City Council of the City of Kyle:

Owner's Signature:

Date:

9/25/17

Do Not Write Below This Line
Staff Will Complete

Tax Certificates: ☒ County ☐ School ☒ City

Certified List of Property Owners Within 200' ☒

All Fees Paid: ☒ Filing/Application ☐ Mail Out Costs

CITY OF KYLE

Attached Map of Subject Property ☐

OCT 06 2017

Accepted for Processing By: Cherie A. Juerna

Date:

PLANNING DEPARTMENT

Date of Public Notification in Newspaper: 10/25/17

Date of Public Hearing Before Planning and Zoning Commission: 11/14/17

Date of Public Hearing Before City Council: 11/21/17

October 11, 2017

City of Kyle,
Honorable Mayor Ted Webster
100 West Center Street
Kyle, TX 78640

RE: Rezoning of GEORGIA LEA SUB, BLOCK A, LOT 4, ACRES 5.051 and ROSY PEACH
SUBD LOT 1 BLK A 1.564 ACRES from Agriculture to Multifamily

Asifali Karowalia (Applicant) and owner of two legally platted existing lots with legal descriptions Georgia Lea Subdivision Block A Lot 4 Acres 5.051 and Rosy Peach Subdivision Block A Lot 1 Acres 1.564 and located at Windyhill Rd City of Kyle is applying to rezone these two tracts of land from current Agriculture zoning to Multifamily.

Mr. Karowalia supported the annexation in November 2013, subject to being given original permanent zoning that conforms to the existing Development Plan for the subject properties. The plan has always been for a 120 unit apartment project on Lot 4 Georgia Lea Sub and Lot 1 Rosy Peach Sub. A letter was sent to Planning Director of City of Kyle Miss Sophia Nelson on November 15, 2013 clarifying the development intentions of property owner. Please refer to Attachment A

To support this Development Plan, the property owner submitted Mi Rancho Meat Market offsite wastewater plan. This plan proposed construction of an 8" wastewater sewer main. The plan detailed the capacity requirements for the 120 units of multi-family, retail and the Meat Market. The plan was approved by the City Engineer on August 29, 2013 and was the first permit that was secured for this master Development Plan. It was followed by two Hays County building permits. Hays County issued a building permit for the multi-family on Lot 1 Rosy Peach and Lot 4, Georgia Lea Subdivision. Please refer to Attachment B and Attachment C

In summary, Mr. Karowalia satisfies the requirements of Texas Local Government Code Section 43.002(a) (2) (A) in that one or more permits have been secured more than 90 days prior to the initiation of annexation. Please refer to Attachment D

Therefore, the Applicant is requesting City of Kyle to zone the properties for Multifamily (R-3-3).

If I can be of further assistance, please feel free to contact me.

Thank You

AR & AR, LLC
PO Box 270184
Austin, TX 78727
512-712-0071
khanah@hotmail.com

LAW OFFICE OF TERENCE L. IRION

1250 S. Capital of Texas Highway
3 Cielo Center, Suite 601
Austin, Texas 78746

Terrence L. Irion

Attorney at Law

(512) 347-9977

(512) 306-8903-FAX

tirion@tirionlaw.com

November 15, 2013

VIA EMAIL: planning@cityofkyle.com

Ms. Sophia Nelson
Planning Department
City of Kyle
100 W. Center Street
P.O. Box 40
Kyle, Texas 787640

RE: Lots 3 and 4, Block A, Georgia Lea Subdivision; and
Lot 1, Block A, Rosie Peach Subdivision;
Windy Hill Road Annexation

Dear Ms. Nelson:

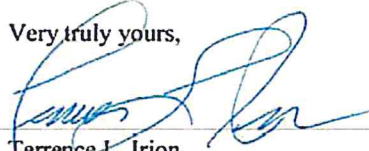
I represent, Asif Karowalia and The Nabia, LLC ("Owner") of the above referenced Property. The purpose of this letter is to declare the Owner's support for the proposed annexation, provided the City brings the above described Parcels into the City with original permanent zoning which supports the current use of the Mi Rancho Meat Market on Parcel R131651 and the proposed multi-family development on Parcels R108168 and R71757.

As you know, the Owner originally requested voluntary annexation into the City in order to connect to the City's wastewater system after it had experienced problems with the onsite sewage facility ("OSSF") system serving the Meat Market Tract. Those deficiencies have since been addressed and there is no immediate health and safety need to connect to the collective sewer system, although Owner is still willing to do so. Owner would request clarification of the Municipal Service Plan with respect to wastewater service to clearly commit to providing wastewater service to the annexed property.

What is of immediate concern to the Owner is the impact annexation may have on the development of the multi-family project on the two parcels to the west of the Meat Market. Owner requests that original permanent zoning at time of annexation designate these two parcels for multi-family use. The two Parcels were purchased early fall of last year for the express purpose of developing a multi-family project on the Property. The Owner has already obtained a Hays County Development Permit for multi-family use on these two Parcels. Much planning has already gone into developing the multi-family use on these two Parcels and Owner would request a conforming zoning designation for these Parcels upon annexation.

We look forward to discussing the details of this annexation during the upcoming public hearings. Should you desire any additional specific information regarding Owner's current development plans on the undeveloped portions of the above described property, please feel free to contact me.

Very truly yours,



Terrence L. Irion

TLI:lm

Cc: Asif Karowalia
The Nabia, LLC

Hays County Development Services

Hays County Development Services
P.O. Box 1006 / 2171 Yarrington Road
San Marcos, TX 78667
(512) 393-2150

Class "A" Building/Development Permit
Permit #: 2013-27818

Location: 1001 WINDY HILL ROAD, KYLE, TX 78640

ROSY PEACH SUBDIVISION Block: A Lot: 1

Owner: ASIFALI KAROWALIA

Mailing Address: 1095 WINDY HILL ROAD, KYLE, TX 78640

Valid for one year from date of issuance.

The Developmental Application has been reviewed and it has been determined that the development permit WILL NOT be in the 100 year floodplain.

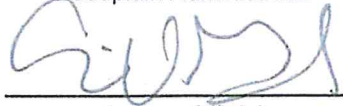
Warning:

The flood hazard boundary maps and other flood data used by the County in evaluating flood hazards to proposed developments are considered reasonable and accurate for regulatory purposes. Flood Plain determinations are based solely on the property owner's indication of the proposed home-site. On occasion greater floods can and will occur and flood heights may be increased by man-made and natural causes. The County cannot guarantee the property will not flood. Exempting the property owner from the Flood Plain Management Regulations does not create any liability on the part of the County or any officer or employee of the County in the event that flooding and/or flood damage does occur. Ultimately responsibility of locating the home/structure outside of the flood plain rests with the property owner. The County recommends the property owner contact a surveyor prior to construction for precise determination.

MULTI FAMILY UNITS

 11-13-2013

Floodplain Administrator Date

 Nov. 13, 2013

Agency Official Date



Hays County Development Services

Hays County Development Services
P.O. Box 1006 / 2171 Yarrington Road
San Marcos, TX 78667
(512) 393-2150

Class "A" Building/Development Permit
Permit #: 2013-27819

Location: 1003 WINDY HILL ROAD, KYLE, TX 78640

GEORGIA LEA SUBDIVISION Block: A Lot: 4

Owner: ASIFALI KAROWALIA

Mailing Address: 1095 WINDY HILL ROAD, KYLE, TX 78640

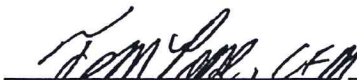
Valid for one year from date of issuance.


The Developmental Application has been reviewed and it has been determined that the development permit WILL NOT be in the 100 year floodplain.

Warning:

The flood hazard boundary maps and other flood data used by the County in evaluating flood hazards to proposed developments are considered reasonable and accurate for regulatory purposes. Flood Plain determinations are based solely on the property owner's indication of the proposed home-site. On occasion greater floods can and will occur and flood heights may be increased by man-made and natural causes. The County cannot guarantee the property will not flood. Exempting the property owner from the Flood Plain Management Regulations does not create any liability on the part of the County or any officer or employee of the County in the event that flooding and/or flood damage does occur. Ultimately responsibility of locating the home/structure outside of the flood plain rests with the property owner. The County recommends the property owner contact a surveyor prior to construction for precise determination.

MULTI FAMILY UNITS & COMMERCIAL RETAIL. ANY FUTURE BUSINESSES USING ON-SITE SEWAGE FACILITIES MUST HAVE LOW WATER USAGE.


Floodplain Administrator 11-13-2013
Date


Agency Official Nov. 13, 2013
Date



LOCAL GOVERNMENT CODE

TITLE 2. ORGANIZATION OF MUNICIPAL GOVERNMENT

SUBTITLE C. MUNICIPAL BOUNDARIES AND ANNEXATION

CHAPTER 43. MUNICIPAL ANNEXATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 43.001. DEFINITION. In this chapter, "extraterritorial jurisdiction" means extraterritorial jurisdiction as determined under Chapter 42.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.002. CONTINUATION OF LAND USE. (a) A municipality may not, after annexing an area, prohibit a person from:

(1) continuing to use land in the area in the manner in which the land was being used on the date the annexation proceedings were instituted if the land use was legal at that time; or

(2) beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the annexation if:

(A) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and

(B) a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.

(b) For purposes of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.

(c) This section does not prohibit a municipality from imposing:

(1) a regulation relating to the location of sexually oriented businesses, as that term is defined by Section 243.002;

(2) a municipal ordinance, regulation, or other requirement affecting colonias, as that term is defined by Section 2306.581, Government Code;

(3) a regulation relating to preventing imminent destruction of property or injury to persons;

(4) a regulation relating to public nuisances;

(5) a regulation relating to flood control;

(6) a regulation relating to the storage and use of hazardous