

**AGENDA ITEM**

**TO:** Planning and Zoning Commission

**THROUGH:** Brandon Opiela, Planning Manager

**FROM:** Anthony Satarino, Planner I

**SUBJECT:** Conduct a Public Hearing to Consider/Discuss/Act on the Request by Big Tony's Grill, on Behalf of Heritage Plaza Limited, for Approval of a Specific Use Permit for a Private Club (Big Tony's Grill), Being Fewer than 3 Acres, Located on the Southwest Corner of U.S. Highway 380 (University Drive) and Redbud Boulevard

**APPROVAL PROCESS:** The recommendation of the Planning and Zoning Commission will be forwarded to the City Council for consideration on August 20, 2013.

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**STAFF RECOMMENDATION:** Staff recommends approval of the proposed specific use permit.

**APPLICATION SUBMITTAL DATE:** June 24, 2013 (Original Application)

**ITEM SUMMARY:** The applicant is requesting approval of a specific use permit (SUP) for a private club (Big Tony's Grill). Big Tony's Grill is located on the southwest corner of U.S. Highway 380 and Redbud Boulevard.

A Specific Use Permit for a private club allows a larger percentage (65%) of the sales receipts from the sale of alcohol than a typical Mixed Beverage Permit (which allows 50%). If the requested Specific Use Permit is approved and issued to the applicant, the applicant must then apply for and receive the necessary alcohol permits from the City of McKinney and the Texas Alcoholic Beverage Commission (TABC) before selling any alcohol on the premises.

**ZONING NOTIFICATION SIGNS:** The required zoning notification signs have been posted on the subject property, as specified within Section 41-233 of the City of McKinney Zoning Ordinance.

**SURROUNDING ZONING AND LAND USES:**

Subject Property: "PD"- Planned Development District Ordinance No. 1463  
(Commercial Uses)

North	“PD”- Planned Development District Ordinance No. 2006-09-100 (Commercial Uses)	Wendy’s, Long John Silvers, Arby’s, Burger King
South	“PD”- Planned Development District Ordinance No. 1463 (Commercial Uses)	Kroger
East	“PD”- Planned Development District Ordinance No. 1463 (Commercial Uses)	Kroger
West	“PD”- Planned Development District Ordinance No. 2007-09-094 (Commercial Uses)	Walgreens

**SPACE LIMITATIONS:** Section 146-46 (Definitions) of the Zoning Ordinance spells out the space limitations for a specific use permit, which requires that the premises contain a minimum of fifty (50) dining seats and a minimum of 600 square feet of dining area. The proposed floor plan provides 86 seats and approximately 2,240 square feet of dining area in the restaurant, thus satisfying the minimum space requirements for a private club.

**LOCATION CRITERIA:** Section 138-21 (Private Clubs) of the Code of Ordinances states that a private club shall be prohibited within three hundred feet (300’) of the property line of any church, public or parochial school, hospital, extended care facility, or publicly owned park, except that the prohibition will not apply to property located within three hundred feet (300’) of publicly owned parks if the City Council affirmatively finds that issuance of the Specific Use Permit would not be detrimental or injurious to the public health, safety, or general welfare, or otherwise offensive to the neighborhood. The 300-foot distance shall be determined by a measurement on the ground as a pedestrian would legally walk from the front door of the private club to the front door of said church, public or parochial school, hospital, or publicly owned park. The subject property complies with this requirement.

**OPERATING REGULATIONS:** Section 138-22 (Private Clubs) of the Code of Ordinances includes a provision for granting a specific use permit for a private club for the consumption of alcoholic beverages requiring compliance with the following regulations:

1. Not less than 35% of the gross receipts of such establishment shall be derived from the sale of food consumed on the premises. Food service shall be available at any time alcoholic beverages are being served. The service of alcoholic beverages without food is prohibited in the dining area and is restricted to a bar or lounge area as described in this article. The

hold of such permit shall provide an annual audit as required within the ordinance which indicates the receipts from sale of food and alcohol.

2. Such establishments shall contain a minimum of 50 dining seats, allowing a minimum of 600 square feet of dining area; calculation of the square feet of dining area to exclude kitchen and storage areas, bar and lounge areas and cashier and reception areas.
3. Such establishment shall comply with all of the provisions of the Texas Liquor Control Act and receive a private club permit from the state within six (6) months from the date of issuance of the special use permit by the City, each such limitation in time being subject to extension by the City Council.
4. The City Council may revoke a special use permit upon the finding that any of the operational requirements imposed at the time of granting permit are not met or thereafter cease to exist. Said special use permit shall be subject to review based on recommendation from the Police Department that the public safety has been or is being jeopardized. The City Manager and the Chief of Police are specifically authorized to receive, accept and investigate complaints from any source.
5. A private club with a bar or lounge area shall be designed so that patrons can enter only from an area within the primary use, e.g. the dining or reception area of a restaurant. Emergency exits direct to the outside are permitted.
6. No signs advertising the sale of alcoholic beverages shall be permitted other than those authorized under the Liquor Control Act of the State of Texas and the City Sign Ordinance.

In addition to the general operation requirements, the applicant shall be responsible for compliance with the City's building and fire code ordinances. In the future, should the building, premises, or land used under a specific use permit be enlarged, modified, structurally altered, or otherwise significantly changed, a separate specific use permit would need to be granted for such modifications.

**OPPOSITION TO OR SUPPORT OF REQUEST:** Staff has received no comments in support of or opposition to this request.

**ATTACHMENTS:**

- Maps
- Letter of Intent
- SUP Exhibit - Proposed Floor Plan
- PowerPoint Presentation