

**AGENDA ITEM**

**TO:** Planning and Zoning Commission

**FROM:** Brian Lockley, AICP, CPM, Planning Director

**SUBJECT:** Conduct a Public Hearing to Consider/Discuss/Act on a Specific Use Permit Request for a Private Club (Big Tony's Pizza Tavern), Located at 1705 West University Drive

**APPROVAL PROCESS:** The recommendation of the Planning and Zoning Commission will be forwarded to the City Council for final action at the August 1, 2016 meeting.

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**STAFF RECOMMENDATION:** Staff recommends approval of the proposed specific use permit for a Private Club.

**APPLICATION SUBMITTAL DATE:** May 16, 2016 (Original Application)  
June 2, 2016 (Revised Submittal)  
June 13, 2016 (Revised Submittal)  
June 27, 2016 (Revised Submittal)

**ITEM SUMMARY:** The applicant is requesting approval of a specific use permit so that the existing Private Club located at 1705 W. University Drive (Big Tony's Pizza Tavern) can remain operating as a Private Club. Under the specific use permit requirements for Private Clubs, specific use permits are non-transferable. As such, whenever there is a change of ownership, the new owner must seek a new specific use permit in order to operate the business as a Private Club.

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.

On August 20, 2013, the City Council approved a specific use permit for a Private Club for Big Tony's Pizza Tavern).

**ZONING:**

Location	Zoning District (Permitted Land Uses)	Existing Land Use
Subject Property	“SUP” – Specific Use Permit Ordinance No. 2013-058-077 (Private Club), “SUP” – Specific Use Permit Ordinance No. 2003-12-106 (Private Club), “PD” – Planned Development District Ordinance No. 1463 (Commercial Uses), and “CC” – Corridor Commercial Overlay District	Big Tony’s Grill, Subway, Tobacco Hut, Any Lab Test Now!
North	“PD” – Planned Development District Ordinance No. 1563 (Commercial Uses), “PD” – Planned Development District Ordinance No. 2006-09-100 (Commercial Uses), and “CC” – Corridor Commercial Overlay District	Burger King Restaurant, Arby’s Restaurant, Wendy’s Restaurant, and Long John Silvers Restaurant
South	“PD” – Planned Development District Ordinance No. 1463 (Commercial Uses), and “CC” – Corridor Commercial Overlay District	Kroger, Rent-A-Center, and First Convenience Bank
East	“PD”- Planned Development District Ordinance No. 2007-09-094 (Commercial Uses)	Walgreen’s Pharmacy
West	“PD” – Planned Development District Ordinance No. 1463 (Commercial Uses), and “CC” – Corridor Commercial Overlay District	Kroger, Rent-A-Center, and First Convenience Bank

**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 measurement of the distance between the private club and the church, hospital or extended care facility shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of the distance between the private club and the public or parochial school shall be from

the nearest property line of the public or parochial school to the nearest doorway by which the public may enter the private club, along street lines and in direct line across intersections. The subject property is not within a 300-foot distance of any of the identified uses.

**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. No less than 35 percent 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 dining areas and is restricted to a bar or lounge area as described in this article. The holder 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 with a minimum of 600 square feet of dining area. Calculation of the square feet of dining area shall exclude kitchen and storage areas, bar and lounge areas, and cashier and reception areas.
3. Such establishments shall comply with all of the provisions of the state alcoholic beverage code and receive a private club permit from the state within six 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 the 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, hotel or motel. 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 state alcoholic beverage code 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 use 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.

**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 80 seats and approximately 2,192 square feet of dining area in the restaurant, thus satisfying the minimum space requirements for a private club.

**SPECIFIC USE PERMITS:** When acting on a request for a specific use permit, the following factors should be considered:

- Compatibility with adjacent and neighboring land uses in the immediate area
- Adaptability of building structures to the proposed use
- Infrastructure requirements: roads, sidewalks, access to public streets, parking, and drainage
- Elements such as screening, open space, building heights, and compatibility of existing buildings to the proposed use

Staff has evaluated the request based on the above mentioned parameters and has no objections to the proposed use and is of the opinion that the use is compatible with existing land uses of the adjacent properties.

**ACCESS/CIRCULATION:**

Adjacent Streets: U.S. Highway 380 (University Drive), Variable Width Right-of-Way, Major Regional Highway

Redbud Street, 100' Right-of-Way, Minor Arterial

**PARKING:** The applicant has satisfied the minimum parking requirements as specified within Section 146-130 (Vehicle Parking) of the Zoning Ordinance.

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

**ATTACHMENTS:**

- Location Map and Aerial Exhibit
- Letter of Intent

- Proposed SUP Exhibit - Floor Plan
- PowerPoint Presentation