

**AGENDA ITEM**

**TO:** Planning and Zoning Commission

**FROM:** Matt Robinson, AICP, Planning Manager

**SUBJECT:** Conduct a Public Hearing to Consider/Discuss/Act on a Specific Use Permit Request for a Private Club (The Pub), Located on the North Side of Virginia Street and Approximately 128 Feet East of Church Street

**APPROVAL PROCESS:** The recommendation of the Planning and Zoning Commission will be forwarded to the City Council for final action at the April 7, 2015 meeting.

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

**APPLICATION SUBMITTAL DATE:** March 6, 2015 (Original Application)

**ITEM SUMMARY:** The applicant is requesting a specific use permit so that the existing restaurant located at 204 W. Virginia Street (The Pub), can be utilized as a Private Club. The applicant has been operating The Pub restaurant since March 2010 under a Mixed Beverage Permit which allows sales receipts from the sale of alcohol to be a maximum of 50% of overall sales. Due to sales receipts from the sale of alcohol exceeding this threshold, a Private Club license is required in order to continue business in its current form.

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.

The McKinney Town Center zoning ordinance requires that a specific use permit be granted in order for a Private Club to be operated on the subject property.

**ZONING NOTIFICATION SIGNS:** Section 146-164 (Changes and Amendments) of the Zoning Ordinance states that all zoning changes or amendments, including zoning, rezoning, amendments to Planned Developments, meritorious exceptions to the architectural standards, specific use permits and the like shall be required to post zoning change signs. The applicant has posted the required public hearing notification signs on the subject property as specified in Section 146-164 (Changes and amendments) of the Zoning Ordinance.

**ZONING:**

<b>Location</b>	<b>Zoning District (Permitted Land Uses)</b>	<b>Existing Land Use</b>
Subject Property	“MTC” – McKinney Town Center - Historic Core District (Office, Retail, Commercial and Residential Uses)	The Pub Restaurant
North	“MTC” – McKinney Town Center - Historic Core District (Office, Retail, Commercial and Residential Uses)	Retail/Office Building
South	“MTC” – McKinney Town Center – Historic Core and Downtown Core Districts (Office, Retail, Commercial and Residential Uses)	Office Building and Parking Lot
East	“MTC” – McKinney Town Center - Historic Core District (Office, Retail, Commercial and Residential Uses)	Retail/Office Building
West	“MTC” – McKinney Town Center - Historic Core District (Office, Retail, Commercial and Multi-Family Residential Uses)	Retail/Office Building

**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 located within a 300-foot distance of a publicly owned park (Mitchell Park).

**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 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 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.

**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 108 seats and approximately 2,600 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: Virginia Street, 57' Right-of-Way, Pedestrian Priority "A" Street

**PARKING:** The McKinney Town Center (MTC) zoning district is intended to implement the Town Center Master Plan, which calls for pedestrian oriented, mixed-use, urban infill redevelopment, providing shopping, employment, housing, and business and personal services. This is achieved by promoting an efficient, compact and walkable development pattern that encourages pedestrian activity and reducing the reliance on private automobiles. To implement the vision, the requirements for on-site parking within the Town Center are lessened and in most cases not required. More specifically, for the Historic Core Character District, existing buildings that contain non-residential or residential uses are not required to provide off-street parking. There is no off-street parking proposed or provided.

**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
- Floorplan Exhibit
- Photo of 204 W. Virginia Street
- PowerPoint Presentation