

DATE: September 17, 2013
TO: Honorable Mayor & City Council
FROM: Chris Caso, Chairman, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of September 16, 2013

**AGENDA ITEM NO. 7A - PUBLIC HEARING
ZONING CASE 2013-15
APPLICANT: CITY OF PLANO**

Request to rescind Specific Use Permit #188 for Private Club on 1.0± acre located on the west side of U.S. Highway 75, 130± feet south of Chisholm Place. Zoned Corridor Commercial with Specific Use Permit #187 for Restaurant and #188 for Private Club.

APPROVED: 7-0 **DENIED:** _____ **TABLED:** _____

LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA: **SUPPORT:** 0 **OPPOSE:** 1

LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA: **SUPPORT:** 0 **OPPOSE:** 0

PETITION(S) RECEIVED: N/A **# OF SIGNATURES:** N/A

STIPULATIONS:

Recommended for approval as submitted.

FOR CITY COUNCIL MEETING OF: October 14, 2013 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

EH/dc

xc: Cliff Bormann, Permit Services Manager



Memorandum

Date: September 23, 2013

To: Bruce Glasscock, City Manager
Frank Turner, Deputy City Manager

From: Eric Hill, Senior Planner

Subject: Zoning Case 2013-15

Staff received a letter of opposition to Zoning Case 2013-15 from a representative of the property owner. Because the property owner's tract comprises more than 20% of the land area being rezoned, Chapter 211 of the Local Government Code requires that a three-quarter majority vote (6 of 8 Council members), rather than a simple majority vote, will be necessary for City Council to approve Zoning Case 2013-15. This zoning case is a request to rescind Specific Use Permit #188 for Private Club. The property in question is the former Spageddies restaurant which is now out of business. The SUP was granted to Spageddies specifically, and therefore any future restaurant will have to apply for a new private club SUP or obtain a mixed-beverage permit through TABC.

Phyllis Jarrell, Director of Planning, will be present at the City Council meeting to address any questions regarding this item.

CITY OF PLANO
PLANNING & ZONING COMMISSION

September 16, 2013

Agenda Item No. 7A

Public Hearing: Zoning Case 2013-15

Applicant: City of Plano

DESCRIPTION:

Request to rescind Specific Use Permit #188 for Private Club on 1.0± acre located on the west side of U.S. Highway 75, 130± feet south of Chisholm Place. Zoned Corridor Commercial with Specific Use Permit #187 for Restaurant and #188 for Private Club.

REMARKS:

This is a city-initiated zoning request to rescind Specific Use Permit (SUP) #188 for Private Club. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of an SUP application.

In 2005, voters approved the sale of alcoholic beverages for on-premise consumption through a mixed beverage permit issued by the Texas Alcoholic Beverage Commission (TABC). Prior to this time, the only option was a private club permit from TABC, with an SUP approved by the city. From 2007 to 2008, the City Council rescinded numerous Specific Use Permits for Private Clubs as restaurants switched to mixed beverage permits. However, there are still numerous SUPs in place for properties where restaurants have ceased operations and since 2008, more restaurants have switched permit types.

Therefore, given recent changes to city ordinances related to private clubs, per City Council's direction, the Planning & Zoning Commission called a public hearing to rescind SUPs for private clubs on properties not presently being used for on-premise alcohol sales and for properties where establishments are now operating with mixed beverage permits.

Spageddies is no longer in operation; therefore, it no longer needs the SUP for a Private Club issued by the City of Plano. Staff received a letter from the property owner stating that they are not in favor of the removal of the SUP. However, this SUP was granted specifically to Spageddies and is not able to be used by another restaurant. Any future establishment in this location would have to obtain a new SUP for Private Club, or apply for a mixed beverage permit.

RECOMMENDATION:

Recommended for approval as submitted.



CHISHOLM PLACE

Area of Request

CENTRAL EXPRESSWAY

18TH STREET



Source: City of Plano, Planning Dept.
Date: September, 2013

Zoning Case 2013-15

Zoning Case 2013-15

An Ordinance of the City of Plano, Texas, repealing in its entirety Ordinance No. 91-11-19; thereby rescinding Specific Use Permit No. 188 for the additional use of a Private Club on 1.0± acre of land out of the J.A. Salmons Survey, Abstract No. 814, located on the west side of U.S. Highway 75, 130± feet south of Chisholm Place in the City of Plano, Collin County, Texas, currently zoned Corridor Commercial with Specific Use Permit No. 187 for Restaurant and Specific Use Permit No. 188 for Private Club, and amending the Comprehensive Zoning Ordinance of the city, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; directing a change accordingly in the official zoning map of the city; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 14th day of October, 2013, for the purpose of considering rescinding Specific Use Permit No. 188 for the additional use of a Private Club on 1.0± acre of land out of the J.A. Salmons Survey, Abstract No. 814, located on the west side of U.S. Highway 75, 130± feet south of Chisholm Place in the City of Plano, Collin County, Texas; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 14th day of October, 2013; and

WHEREAS, the City Council is of the opinion and finds that the rescinding of Specific Use Permit No. 188 for the additional use of a Private Club would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

WHEREAS, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Ordinance No. 91-11-19 duly passed and approved by the City Council of the City of Plano, Texas, on November 25, 1991, granting Specific Use Permit No. 188 for the additional use of a Private Club on 1.0± acre of land out of the J.A. Salmons Survey, Abstract No. 814, located on the west side of U.S. Highway 75, 130± feet south of Chisholm Place in the City of Plano, Collin County, Texas, currently zoned Corridor Commercial with Specific Use Permit No. 187 for Restaurant and Specific Use Permit No. 188 for Private Club, more fully described on Exhibit "A" attached hereto, is hereby repealed in its entirety. Consequently, Specific Use Permit No. 188 is hereby rescinded.

Section II. It is hereby directed that the Comprehensive Zoning Ordinance, No. 2006-4-24, as heretofore amended, be revised and amended (which is retained in electronic record format), to reflect the action and zoning classification established by this Ordinance.

Section III. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section IV. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section V. Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VI. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 14TH DAY OF OCTOBER, 2013.

Harry LaRosiliere, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

Zoning Case 2013-15

BEING a 1.03 acre tract of land situated in the J.A. Salmons Survey, Abstract No. 814, Collin County, Texas, and being more particularly described as follows:

BEGINNING at an iron rod found for corner situated in the curving west line of U.S. Highway No. 75 (300-foot right-of-way), said iron rod being the most easterly southwest corner of Lot 1, Block A of Chisholm Place Addition No. 1, an addition to the City of Plano, Collin County, Texas, said iron rod further being an arc length of 120.83 feet in a southwesterly direction from the southerly corner clip line of Chisholm Place (80-foot right-of-way);

THENCE continuing along said curve to the left with the west line of said U.S. Highway 75 in a southwesterly direction having a central angle of $02^{\circ} 34' 37''$, a radius of 5,889.58 feet, an arc length of 265.16 feet, and a chord bearing of South, $07^{\circ} 54' 43''$ West to an iron rod set for corner;

THENCE North, $83^{\circ} 19' 36''$ West, departing the curving west line of said U.S. Highway No. 75 a distance of 34.38 feet to an iron rod set for corner;

THENCE West, a distance of 94.92 feet to an iron rod set for corner;

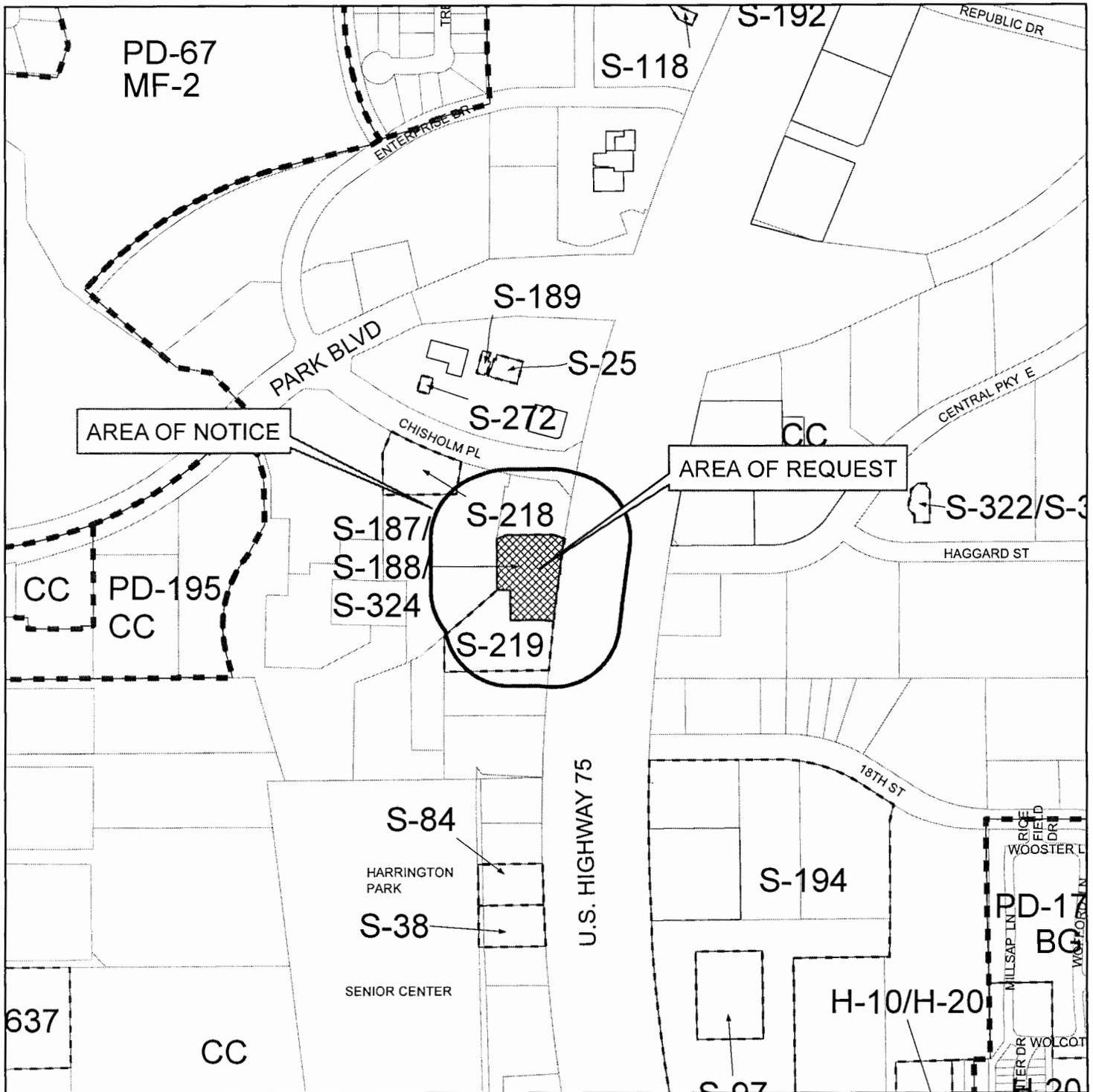
THENCE North, a distance of 92.43 feet to an iron rod set for corner;

THENCE West, a distance of 39.91 feet to an iron rod set in the easterly line of said Lot 1, Block A;

THENCE along the easterly and south line of said Lot 1, Block A the following:

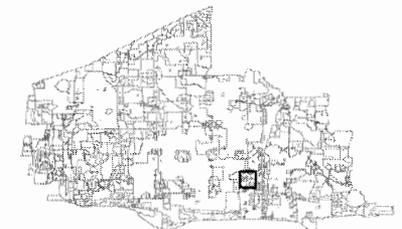
North, a distance of 165.74 feet to an 'x' cut found for corner;

East, a distance of 205.69 feet to the POINT OF BEGINNING and CONTAINING 44,835 square feet or 1.03 acres of land.



Zoning Case #: 2013-15

Existing Zoning: CORRIDOR COMMERCIAL
w/SPECIFIC USE PERMITS #187 & #188



○ 200' Notification Buffer

