



CITY OF ROCKWALL, TEXAS MEMORANDUM

TO: Planning and Zoning Commission

FROM: Ryan Miller, *Director of Planning and Zoning*

DATE: February 14, 2017

SUBJECT: Proposed Changes to Specific Use Permits (SUP)

After a work session on Specific Use Permits (SUP) on February 6, 2017, the City Council directed staff to amend Section 4, *Specific Use Permits (SUP)*, of Article IV, *Permissible Uses*, of the Unified Development Code (UDC). The purpose of this amendment is to make the following changes to the UDC:

- (1) Grant the City Council and Planning and Zoning Commission the ability to create operational conditions, which can regulate SUPs on a *case-by-case* basis.
- (2) Establish compliance requirements that regulate the property owner's responsibility with regard to an approved SUP.
- (3) Establish abandonment, expiration and revocation procedures for SUPs. In addition, this text amendment would establish the following time limitations:
 - (a) If an approved SUP was vacated or inactive for six (6) months the SUP would automatically expire.
 - (b) If an approved SUP is not issued a building permit within one (1) year of the approval date, the SUP would automatically expire. *Note: If a building permit is not necessary this would revert to a Certificate of Occupancy (CO).*
 - (c) If an approved SUP is issued a building permit but a Certificate of Occupancy (CO) has not been issued within one (1) year of the issuance date of the building permit, the SUP would automatically expire.
- (4) Establish a procedure for the City Council to grant a one (1) time extension for a period not to exceed one (1) year.
- (5) Expire all existing SUPs and Conditional Use Permits (CUP) that are inactive or do not receive a building permit within one (1) year of the adoption date of the text amendment.

Currently, there are 158 SUPs and 228 CUPs in the City. This text amendment would not only clear up inactive entitlements, but would also prevent future inactive entitlements from accruing throughout the city. In addition, it provides a clear understanding of the procedures and requirements for SUPs.

In accordance, with Section 4.2 of Article XI, *Zoning Related Applications*, of the UDC staff is bringing the proposed amendments forward to the Planning and Zoning Commission for a recommendation to the City Council. Attached to this case memo is a copy of the current ordinance and a copy of the proposed amendments to the UDC. The schedule for this text amendment is as follows:

Planning and Zoning Work Session: February 14, 2017
Planning and Zoning Public Hearing: February 28, 2017

City Council Public Hearing [1st Reading]: March 6, 2017
City Council [2nd Reading]: March 20, 2017

Staff will send out a 15-day notice to the Rockwall Herald Banner in accordance with all applicable state laws and Section 6.1 of Article II, *Authority and Administrative Procedures*, of the UDC. In addition, staff will send a courtesy notice to all property owners that have been approved for a Specific Use Permit (SUP) within the last five (5) years.

Text Amendment

Note: ~~Strikeouts~~ represent the current code language, which is being removed in its entirety.

Section 4, Specific Use Permits (SUP)

Article IV, Permissible Uses

Unified Development Code

~~A specific use permit (SUP) is required for any use identified in the land use table as requiring one. The procedure for requesting an SUP is set out in article XI [of this Unified Development Code], Zoning Related Applications and Procedures.~~

Section 4.1, Purpose

The purpose of a Specific Use Permit (SUP) is to allow discretionary consideration of certain uses that would typically be considered incompatible within certain locations of a zoning district, but may become compatible with the addition of special provisions, conditions or restrictions. A SUP does not change the base zoning; it allows a particular use that would not normally be permitted in that zoning district. The SUP requirement for any land use is identified in the *Permitted Land Use* table contained in Article IV, *Permissible Uses*, of this Unified Development Code. The discretionary SUP procedure is designed to enable the Planning and Zoning Commission and the City Council to impose conditions upon such uses and structures that are designed to avoid, minimize or mitigate potentially adverse effects upon the community or other properties in the vicinity of the proposed use or structure, and to deny requests for a SUP when it is apparent that a proposed use or structure will or may occasionally harm the community or cause injury to the value, lawful use, and reasonable enjoyment of other properties in the vicinity of the proposed use or structure

Section 4.2, Operational Conditions

In considering a SUP, staff and/or the Planning and Zoning Commission may recommend and the City Council may adopt additional conditions and operational constraints to ensure compatibility with adjacent land uses. These additional conditions and operational constraints will be incorporated into the SUP ordinance, and may relate to: (1) a property's specific site conditions, (2) increased performance standards, (3) compatibility with adjacent properties, (4) mitigation of potentially negative or adverse effects of a request, and (5) anything that could have a negative impact on the public's health, safety and general welfare.

Section 4.3, Compliance

- (1) In considering a Special Use permit application, the Planning and Zoning Commission may recommend, and the City Council may impose such conditions, safeguards and restrictions upon the premises benefited by the special use as may be necessary to avoid, minimize, or mitigate any potentially injurious effect of such special uses upon other property in the neighborhood, and to carry out the general purpose and intent of this Ordinance. Such conditions shall be set out in the Ordinance approving the SUP.
- (2) Prior to a SUP being issued, the property owner of the affected property shall agree, comply and be bound to the conditions and operational constraints approved by the City Council and contained in the SUP ordinance.
- (3) A SUP is considered to be transferable from property owner to property owner; however, the conditions and operational constraints of the SUP shall remain in effect and be applicable to

the new property owner(s) and/or occupant(s). SUP's cannot be transferred from property to property.

Section 4.4, *Abandonment, Expiration and Revocation of a Specific Use Permit (SUP)*

- (1) *Abandonment.* A SUP approved by the City Council that remains vacant or inactive for a period of six (6) months shall be deemed to be abandoned and shall automatically expire. Vacancy or inactivity can be determined by the following:
 - (a) The water and/or electrical services have been disconnected or discontinued on the property; and/or
 - (b) The subject property (e.g. *lease space, parcel or parcels of land, lot, tract etc.*) is unoccupied; and/or
 - (c) The use is abandon due to the issuance of a Certificate of Occupancy (CO) for a use other than (*and exclusive from*) the use approved with the SUP.
- (2) *Expiration.* A Specific Use Permit (SUP) shall automatically expire due to inactivity if:
 - (a) A building permit has not been issued within (1) year of the approval date of the SUP ordinance, and/or a Certificate of Occupancy (CO) has not been issued within one (1) year of a building permit -- *or one (1) year of the approval date of this ordinance if no building permit is necessary*; or
 - (b) A building permit or Certificate of Occupancy (CO) expires, is terminated or revoked under the requirements of the Codes of the City of Rockwall.
- (3) *Revocation.* The City Council reserves the right to revoke or rescind any SUP in which the business, property or property owner operating under the guidelines of the SUP ordinance fails to meet the minimum operation requirements set forth in the Specific Use Permit (SUP) ordinance and/or outlined in the Unified Development Code or the Rockwall Municipal Code of Ordinances. The procedure for revocation or rescinding a Specific Use Permit (SUP) shall be the same procedure for requesting a new Specific Use Permit (SUP).

Section 4.5, *Extension of a Specific Use Permit (SUP)*

Upon recommendation from the Planning and Zoning Commission, the City Council may grant a one (1) time extension to the expiration requirements stated above for a period not to exceed one (1) year. To apply for an extension a property owner shall file a written request with the Director of Planning or his designee at least 90 days prior to the expiration date. Extension requests shall not require a public hearing. No additional extension shall be granted without complying with the notice and hearing requirements for an initial application for a SUP.

Section 4.6, *Existing Specific Use Permits (SUP) and Conditional Use Permits (CUP)*

Specific Use Permits (SUP) and Conditional Use Permits (CUP) in existence at the time this section was adopted by the City Council shall automatically terminate one (1) year from the adoption date of this section if a building permit -- *or a Certificate of Occupancy (CO) if no building permit is necessary* -- has not been issued or an extension is not requested under Section 4.5 of this Ordinance.