

STAFF REPORT

Case Number: 20-ZA-03

Request: Conduct a public hearing and consider a request to amend the Comprehensive Zoning Ordinance including but not limited to amending: Article 2.6 Alcoholic Beverage Sales in Restaurants and Private Clubs, Article 3.21 Light Industrial District, Article 3.22 Heavy Industrial District, and Article 4.5 Performance Standards as it relates to uses and development standards requiring approval of a Specific Use Permit; and take appropriate action.

Applicant: City of Farmers Branch

Planning & Zoning Commission Meeting: May 11, 2020

Background:

This is a city initiated Comprehensive Zoning Ordinance (CZO) text amendment. City Council directed staff to consider removing Specific Use Permit requirements from the CZO that may no longer be necessary or the most appropriate means for regulating certain uses and/or improvements. The last major overhaul of the CZO was adopted by City Council in January of 2017 and included a thorough review of the land uses subject to approval of a specific use permit. However, there still remains provisions within the CZO that require approval of an SUP particularly as it relates to development standards; therefore, staff has focused its review on the development performance standards. The following items listed below are proposed for removal of the SUP requirement and clarification of existing requirements:

- Outdoor patio areas associated with qualifying restaurants;
- More than two driveway approaches for properties located within Light Industrial (LI) and Heavy Industrial (HI) zoning districts; and
- The amount of open storage allowed by right versus that which requires approval of an SUP.

Staff presented this proposed CZO amendment to the Planning and Zoning Commission at a study session discussion during their February 10, 2020 regular meeting. The Commission was agreeable to the proposal and advised staff to proceed with the public hearing and ordinance adoption process. The proposed amending ordinance is attached with this staff report.

Proposed Amendments:

Staff has identified the following provisions within the CZO to discuss removal or clarification of the SUP requirement.

A. Qualifying Restaurants

The CZO defines qualifying restaurants as an existing or proposed eating establishment whose gross sale of food and non-alcoholic beverages shall constitute at least 50% of the establishment's

combined gross sales of food, non-alcoholic and alcoholic beverages quarterly. The CZO allows qualifying restaurants by right in the Local Retail District-1 (LR-1), Local Retail District-2 (LR-2), Commercial (C), Light Industrial (LI) and Heavy Industrial (HI) zoning districts pursuant to requirements in Section 2.6 which includes provisions related to alcoholic beverage sales, structural and building requirements, food service regulations, application and submittal criteria, and alcohol awareness program. Additionally, Section 2.6 requires approval of an SUP for the sale of alcoholic beverage within an outdoor patio, as provided for below:

2.6 Alcoholic beverage sales in restaurants and private clubs

F. Food Service

3. A qualifying restaurant may provide service in an attached patio or garden subject to approval of a specific use permit by the City Council.

As previously mentioned, the CZO allows qualifying restaurants by right in the LR-1, LR-2, C, LI and HI zoning districts. However, the aforementioned provision requiring approval of an SUP for an attached patio with a qualifying restaurant defeats the intent of the CZO to allow qualifying restaurants by right. Staff believes it is appropriate to remove the SUP requirement for the attached patio with qualifying restaurants. If the location allows a qualifying restaurant by right through the base zoning district, then the attached patio should not be required to go through an SUP approval process as it is part of the main land use, i.e. the restaurant.

B. Access Drive Approaches

Article 3. Zoning District Dimensional Standards of the CZO includes standards that regulate siting and massing of structures on a property. For each zoning district there are additional notes (or provisions) listing unique development standards applicable to that particular zoning district, outside of the height or siting standards. There are two such provisions within LI and HI zoning districts that has an SUP approval requirement for access drive approaches, specifically sites wanting more than two drive approaches.

3.21 LI (Light Industrial District)

Notes

5. Two approach driveways not exceeding 40 feet in width each may be located in the front yard. Additional driveways require approval of a specific use permit in accordance with Section 6.5.

3.22 HI (Heavy Industrial District)

Notes

6. Two approach driveways not exceeding 40 feet in width each may be located in the front yard. Additional driveways require approval of a specific use permit pursuant to Section 6.5.

Currently driveway spacing, maximum number of driveways, driveway location and other site design related items are reviewed on a case by case basis through the city's detailed site plan review process. The city's Public Works Department follows engineering best management practices and standards for these site design elements. As a result, there is no need for having

maximum number, width or location of driveways within the LI or HI zoning districts being subject to approval of an SUP to design otherwise. These standards can unintentionally contradict optimal site layout and configuration based on engineering best management practices. Furthermore, the SUP process should be reserved for evaluating the appropriateness of land uses within a zoning district, including but not limited to land use impacts on adjacent properties, compatibility of uses, and use operations. Therefore, staff recommends these two SUP requirements should be removed from the CZO.

C. Open Storage

Article 4. Site Development Standards of the CZO has requirements related to how open storage may be provided on a property. The open storage provisions stated below require clarification, as through ordinance amendments over the years, the ordinance language might have lost some of its original clarity related to the amount of open storage allowed by right on a property versus the amount which triggers approval of an SUP.

4.5 Performance Standards

B. C, LI and PD Districts

8. Open Storage

- b.* The area designated as open storage shall not exceed 15% of the total gross square foot of the building located on the same lot as the open storage prior to approval of a specific use permit in accordance with Section 6.5.

C. HI District

8. Open Storage

- b.* The area designated as open storage shall not exceed the total gross square foot of the building located on the same lot as the open storage area prior to approval of a specific use permit in accordance with Section 6.5.

This CZO requirement of restricting open storage on site is to control nuisance and aesthetic issues of any operation. There has been a need to clarify the “15%” provision within the C and LI districts as the statement is confusing in determining when the SUP requirement is triggered. Based on past review of the city’s CZO prior to the ordinance being amended in 2017, the equivalent up to 15% of building floor area was allowed as open storage by right, and any amount of open storage exceeding 15% required approval of an SUP. Therefore, staff proposes to amend the language as follows:

- b.* The area designated as ~~of~~ open storage authorized by right pursuant to paragraph a, above, shall not exceed 15% of the total gross square footage of the area of the building(s) located on the same lot and to which such outside storage constitutes an accessory use as the open storage. Use of an area for open storage exceeding 15% of the total gross square footage of the area of the building(s) on the same lot and to which such outside storage constitutes an accessory use shall require prior to approval of a specific use permit in accordance with Section 6.5.

Similar clarification is proposed for the open storage provision in the HI zoning district as follows:

b. The area ~~designated as~~ of open storage authorized by right pursuant to paragraph a, above, shall not exceed the total gross square footage of the area of the building(s) located on the same lot and to which such outside storage constitutes an accessory use ~~as the open storage area.~~ Use of an area for open storage exceeding the total gross square footage of the building(s) on the same lot and to which such outside storage constitutes an accessory use shall require prior ~~to~~ approval of a specific use permit in accordance with Section 6.5.

Open storage shall still be subject to existing screening requirements as provided for in the CZO; no changes are proposed to the screening requirements (i.e. minimum 6-ft/maximum 8-ft tall masonry wall and landscaping).

Comprehensive Plan Recommendation:

The City of Farmers Branch comprehensive plan is comprised of the West Side Plan, Central Area Plan, and East Side Plan. Each of these comprehensive plans recognize zoning as one of the most important tools to accomplish the land use goals and objectives of these long range plans' recommendations. The East Side Plan states that zoning restrictions and complicated alcohol regulations are a significant barrier to entry for new businesses. By removing the unwarranted SUP requirement from the CZO, the proposed amendment is consistent with the Plan's recommendations, thereby allowing for streamlined development review process. The amendment encourages new and re-development projects by reducing application review and processing time.

Public Response:

The required public hearing notice was published in the Dallas Morning News on May 1, 2020. No zoning notification signs nor mailed notices are required for amendments to the CZO. Staff has received no correspondence related to this proposed CZO amendment.

Staff Recommendation:

Staff recommends approval of the proposed zoning request.