

## **SECTION 17-29.5 - "SUP" SPECIAL USE PERMIT**

(a) *Purpose.*

The special use permit (SUP) provides a means for evaluating land uses identified in this ordinance to ensure compatibility with adjacent properties. The intent of the special use permit process is to allow consideration of certain uses that would typically be incompatible or intensely dominate the area in which they are located, but may become compatible with the provision of certain conditions and restrictions.

(b) *Application submittal and approval process.*

- (1) Application for an SUP shall be processed like an application for rezoning. An application shall not be complete and shall not be scheduled for a public hearing unless the following are submitted along with the application:
  - a. A scaled development plan depicting the items listed in Section 17-29.5(b)(2);
  - b. A meets and bounds description of the property boundary;
  - c. A narrative explaining how the property and use(s) will function;
  - d. Colored elevations of the building and other structures including dimensions and building materials;
  - e. A Landscaping Plan, meeting the requirements of Section 6-124 of the Lewisville Code of Ordinances;
  - f. A Tree Survey and Mitigation Plan if required by Section 6-125 of the Lewisville Code of Ordinances;
  - g. Detailed elevations and descriptions of proposed signage;
  - h. An exhibit illustrating any requested variances; and
  - i. Any other information, drawings, operating data or expert evaluations that city staff determines are necessary to evaluate the compatibility criteria for the proposed use and development.
- (2) The development plan submitted along with an SUP application must include the following:
  - a. The layout of the site;
  - b. A north arrow;
  - c. A title block including project name, addition, lot, block, acreage, and zoning classification of the subject property;
  - d. Name, address, and phone number for applicant, developer, owner, builder, engineer, and/or surveyor;
  - e. Building location, property lines, and setbacks;
  - f. Summary tables listing building square footage, required parking, and required landscaping;
  - g. Locations of utility easements, if applicable;
  - h. Zoning and ownership of adjacent properties;
  - i. Easements, deed restrictions, or encumbrances that impact the property;
  - j. Median openings, traffic islands, turning lanes, traffic signals, and acceleration and deceleration lanes;
  - k. Streets, alleys, and easements adjacent to the site;
  - l. Driveways and sidewalks;
  - m. Parking configuration, including maneuvering lanes and loading areas;
  - n. Location and details of dumpsters and screening devices; and
  - o. Location of all proposed signage.
- (3) Variances from the regulations of the city's General Development Ordinance may be granted at the discretion of the city council as part of the SUP approval. The granting of an SUP has no effect on uses permitted by right and does not waive the regulations of the underlying zoning district.

- (4) The planning and zoning commission or the city council may require additional information or drawings, operating data or expert evaluation or testimony concerning the location and characteristics of any building or uses proposed.
- (5) The planning and zoning commission, after holding a public hearing, shall recommend to the city council approval or denial of each SUP along with any recommended conditions. The city council shall review each case on its own merit, apply the compatibility criteria established herein, and if appropriate, grant the special use permit for said use(s).
- (6) Completion of a development plan for the SUP does not waive the requirement to provide an engineering site plan in accordance with the General Development Ordinance.

(c) *Compatibility criteria for approval.*

The planning and zoning commission shall not recommend approval of, and the city council shall not grant an SUP for a use except upon a finding that the use will:

- (1) complement or be compatible with the surrounding uses and community facilities and any adopted comprehensive plans or small area plans;
- (2) contribute to, enhance, or promote the welfare of the area of request and adjacent properties;
- (3) not be detrimental to the public health, safety, or general welfare; and
- (4) conform in all other respects to all zoning regulations and standards.

(d) *SUP conditions.*

The planning and zoning commission may recommend and the city council may adopt reasonable conditions upon the granting of an SUP consistent with the purpose and compatibility criteria stated in this section. The development plan, however, shall always be attached to and made a condition of the SUP. The other documents submitted with the SUP application may also be made conditions of the SUP.

(e) *Amendments, enlargement, modifications or structural alterations.*

- (1) Except for minor amendments, all amendments, enlargements, modifications or structural alterations or changes to the development plan shall require the approval of a new SUP. The city manager or his designee may authorize minor amendments to the development plan that otherwise comply with the SUP ordinance and the underlying zoning and do not:
  - a. Alter the basic relationship of the proposed development to adjacent property;
  - b. Increase the maximum density or height shown on the original development plan;
  - c. Decrease the number of off-street parking spaces shown on the original development plan; and/or
  - d. Reduce setbacks at the boundary of the site as specified by a building or setback line shown on the original development plan.
- (2) For purposes of this subsection, "original development plan" means the earliest approved development plan that is still in effect, and does not mean a later amended development plan. For example, if a development plan was approved with the specific use permit and then amended through the minor amendment process, the original development plan would be the development plan approved with the specific use permit, not the development plan as amended through the minor amendment process. If, however, the development plan approved with the specific use permit was replaced through the zoning process, then the replacement development plan becomes the original development plan. The purpose of this definition is to prevent the use of several sequential minor amendments to circumvent the zoning amendment process.

- (3) Although the city manager or his designee has the authority to grant minor amendments to the development plan, they are not obligated to do so. The city manager or his designee shall always maintain the discretion to require city council approval if he feels that it is within the public's interest that city council consider the amendment, enlargement, modifications, or structural changes at a public hearing.

(f) *Compliance mandatory with written requirements.*

- (1) No special use permit shall be granted unless the applicant, owner, and grantee shall be willing to accept and agree to be bound by and comply with the written requirements attached to the development plan drawings and approved by the city council.
- (2) A special use permit shall be transferable from one owner or owners of the subject property to a new owner or occupant of the subject property, however all regulations and conditions of the SUP shall remain in effect and shall be applicable to the new owner or occupant of the property.

(g) *Timing.*

All development plans submitted for review will be on the city's active list for a period of 90 days from the date of each submittal. After the 90-day period, a project will be considered abandoned and removed from the file. A building permit shall be applied for and secured within 180 days from the time of approval of the special use permit provided that the city may allow a one-time extension of the SUP for another 180 days. A SUP shall expire six months after its approval or extension date if no building permits have been issued for the site or if a building permit has been issued but has subsequently lapsed. Work must be completed and operations commenced within 18 months of approval.

(h) *Zoning map.*

When the city council authorizes granting of a special use permit the official zoning district map shall be amended according to its legend to indicate that the affected area has conditions and limited uses, said amendment to indicate the appropriate zoning district for the approved use, and suffixed by an "SUP" designation. A log of all special use permits shall be kept by the city.

(i) *Rescind and terminate a special use permit.*

City council may rescind and terminate an SUP after a public hearing if any of the following occur:

- (1) That one or more of the conditions imposed by the SUP has not been met or has been violated.
- (2) The SUP was obtained through fraud or deception.
- (3) Ad valorem taxes on the property are delinquent by six months or more.
- (4) Disconnection or discontinuance of water and/or electrical services to the property.
- (5) Abandonment of the structure, lease space, lot, or tract of land for 180 days or more. (For the purpose of this section, "abandon" shall mean to surrender occupancy by vacating or ceasing to operate or inhabit such property.)