

DATE: December 22, 2020

TO: Honorable Mayor & City Council

FROM: M. Nathan Barbera, Chair, Planning & Zoning Commission

SUBJECT: Results of Planning & Zoning Commission Meeting of December 21, 2020

AGENDA ITEM NO. 3 - PUBLIC HEARING

ZONING CASE 2020-028

APPLICANT: EQYInvest Owner I LTD LLP

Request for a Specific Use Permit for Private Club on 0.1 acre located on the east side of Custer Road, 641 feet south of Parker Road. Zoned Planned Development-90-Retail. Project #ZC2020-028.

APPROVED: 8-0 **DENIED:** **TABLED:**

Speaker Card(s) Received Support: 0 Oppose: 0 Neutral: 0

Letters Received Within 200' Notice Area: Support: 0 Oppose: 0 Neutral: 0

Petition Signatures Received: Support: 0 Oppose: 0 Neutral: 0

Other Responses: Support: 0 Oppose: 0 Neutral: 0

STIPULATIONS:

Recommended for approval as submitted.

DF/kob

xc: Rafi Zitvar, EQYInvest Owner I LTD LLP
Stephen Lindsey, Texas Liquor License
Jeanna Scott, Building Inspections Manager

<https://goo.gl/maps/u2GvN2X23JjnXZXg8>

CITY OF PLANO
PLANNING & ZONING COMMISSION

December 21, 2020

Agenda Item No. 3

Public Hearing: Zoning Case 2020-028

Applicant: EQYInvest Owner I, Ltd., LLP

(Submitted under the Interim Comprehensive Plan)

DESCRIPTION:

Request for a Specific Use Permit for Private Club on 0.1 acre located on the east side of Custer Road, 641 feet south of Parker Road. Zoned Planned Development-90-Retail. Project #ZC2020-028. Tabled December 7, 2020.

REMARKS:

The applicant is requesting a Specific Use Permit (SUP) for Private Club for an existing restaurant. 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. The Zoning Ordinance defines a private club as an establishment providing social and dining facilities, as well as alcoholic beverage service, to an association of persons, and otherwise falling within the definition of, and permitted under the provisions of the Texas Alcoholic Beverage Code, as the same may be hereafter amended, and as it pertains to the operation of private clubs.

Additionally, Section 6.100 (Specific Use Permits) of Article 6 (Specific Use Permits and Certificates of Occupancy) states the following:

- .3 “The Planning & Zoning Commission in considering and determining its recommendations to the City Council on any request for a specific use permit may require from the applicant plans, information, operating data, and expert evaluation concerning the location, function, and characteristics of any building or use proposed. The City Council may, in the interest of the public welfare and to insure compliance with this ordinance, establish conditions of operation, location, arrangement, and type and manner of construction of any use for which a permit is authorized. In authorizing the location of any of the uses listed as specific use permits, the City Council may impose such development standards and safeguards as the conditions

and locations indicate important to the welfare and protection of adjacent property from noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view, traffic, or other undesirable or hazardous conditions.”

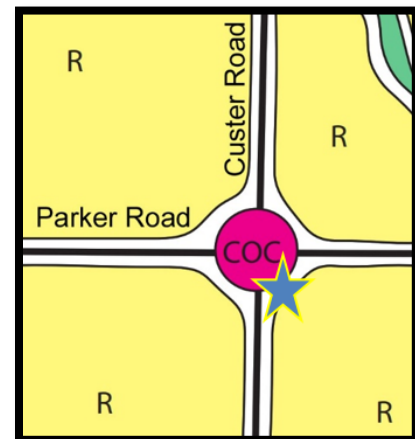
Surrounding Land Use and Zoning

North	Existing surface parking for the shopping center with retail, restaurant, and service uses zoned Planned Development-90-Retail (PD-90-R).
East	Existing shopping center with retail, restaurant, and service uses zoned PD-90-R with Specific Use Permits No. 42 and No. 291 for Arcade.
South	Existing single-family residences zoned Single-Family Residence-9 (SF-9).
West	Across Custer Road, an existing shopping center with car wash, retail, and medical office uses zoned PD-90-R with Specific Use Permit No. 280 for Commercial Antenna Support Structure and General Office (O-2).

Conformance to the *Interim Comprehensive Plan* (1986 based):

The **Land Use Map (2011)** in the *Interim Comprehensive Plan* shows the subject property is located in the Community Commercial (COC) land use category.

The **Land Use Element** also includes an Appendix for Land Use Categories. Community Commercial centers generally serve a neighborhood area of three to five miles and include department or discount stores, grocery stores, specialty shops, and restaurants, along with office uses. These centers are located on sites 15 to 35 acres in size along regional expressways or at intersections of major arterial streets.



The **Economic Development Element**, in the ***Objectives for Theme II – City of Organized Development***, provides the following: Objective B.2 - Retain and support Plano’s businesses.

The request for a private club is in conformance with the *Interim Comprehensive Plan*.

Private Club Request

The applicant is requesting the SUP for Private Club in order to take advantage of the city’s food-to-beverage ratio for alcohol. Most restaurants which serve alcohol within the City of Plano operate under a mixed-beverage permit with a food-and-beverage certificate due to the complexities of maintaining private club documentation. Establishments operating with a mixed-beverage permit and a food-and-beverage certificate are prohibited from deriving more than 60% of gross receipts from the sale of alcohol, a requirement which is enforced by the Texas Alcoholic Beverage Commission. As stated in the applicant’s letter, which is attached to this report, the subject property occasionally exceeds the 60% threshold and, thus, is no longer in compliance with TABC’s requirements.

Subsection 15.1000 (Private Clubs) of Article 15 (Use-specific Regulations) of the Zoning Ordinance contains regulations which control the location and requirements of private clubs. The Zoning Ordinance requires that all private clubs must derive a minimum of 35% of gross receipts from the sale of food. The applicant has committed to maintaining receipts in order to verify that the business can comply with the food sale requirements.

The Zoning Ordinance also stipulates that private clubs must meet the following setbacks from churches, schools, and public hospitals as noted below:

“No person shall sell alcoholic beverages if the place of business is within 300 feet of a religious facility, public or private school, or public hospital except as provided by the Texas Alcoholic Beverage Code. The sale of alcoholic beverages is also prohibited within 1,000 feet of a private school if the City Council adopts by resolution a request for the 1,000 foot separation from the governing body of a private school.”

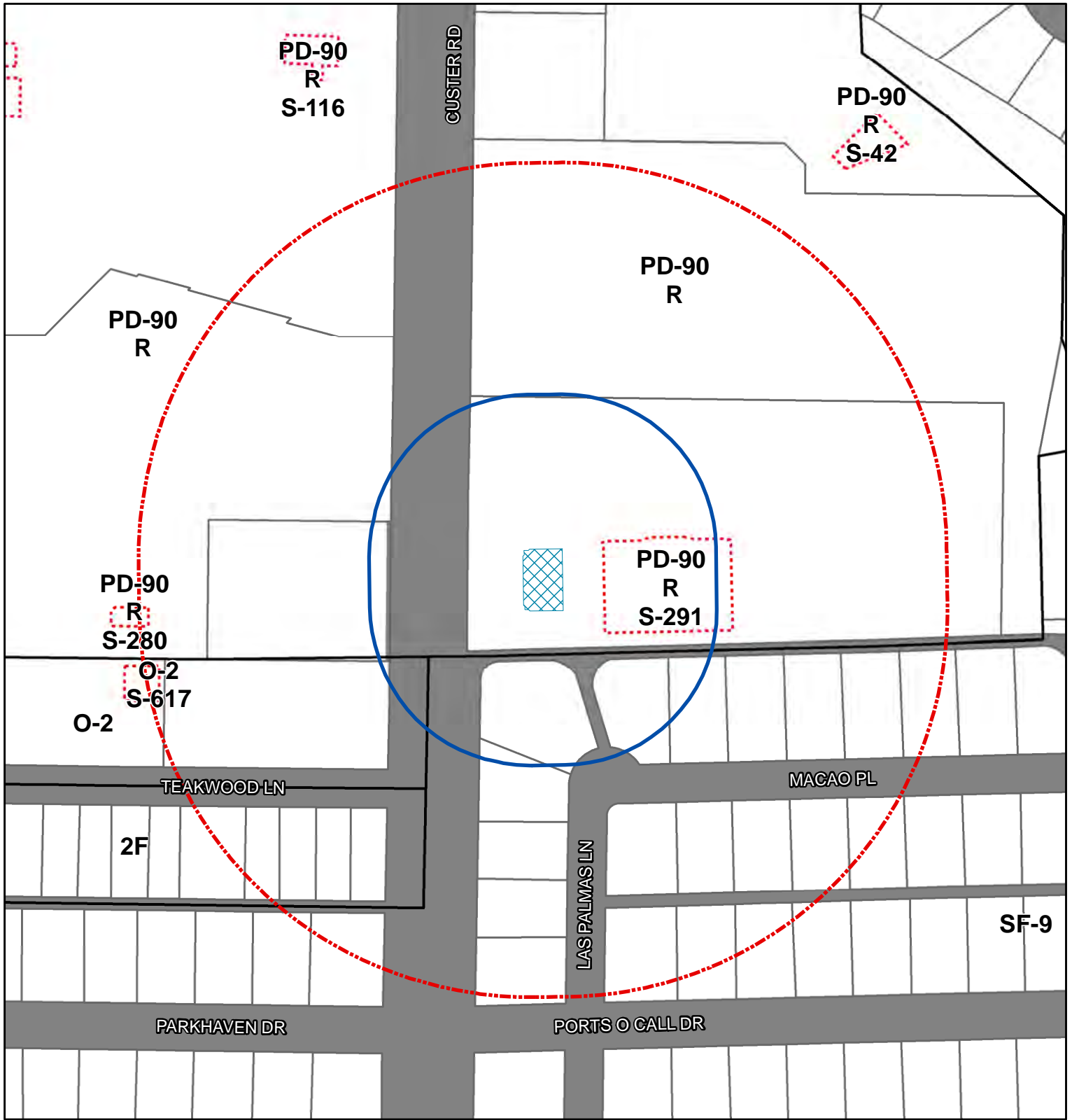
The subject property is in compliance with the required setbacks.

SUMMARY:

The applicant is requesting a Specific Use Permit for Private Club to ensure conformance with TABC requirements for the existing restaurant. The subject property meets the Zoning Ordinance setback requirements from adjacent uses and is in compliance with the recommendations of the *Interim Comprehensive Plan*. Staff is in support of the requested SUP.

RECOMMENDATION:

Recommended for approval as submitted.

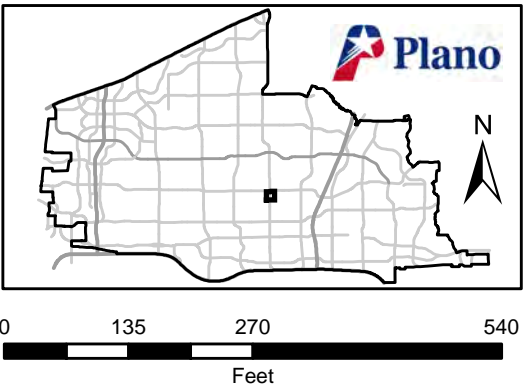


Zoning Case: 2020-028

Existing Zoning: Planned Development-90-Retail (PD-90-R)

Proposed Zoning: SUP for Private Club

- 500' Courtesy Notification Buffer
- 200' Notification Buffer
- Subject Property
- Streets
- Zoning Boundary Change/SUP
- Specific Use Permit
- Municipal Boundaries
- Zoning Boundary





CUSTER RD

TEAKWOOD LN


MACAO PL

LAS PALMAS LN

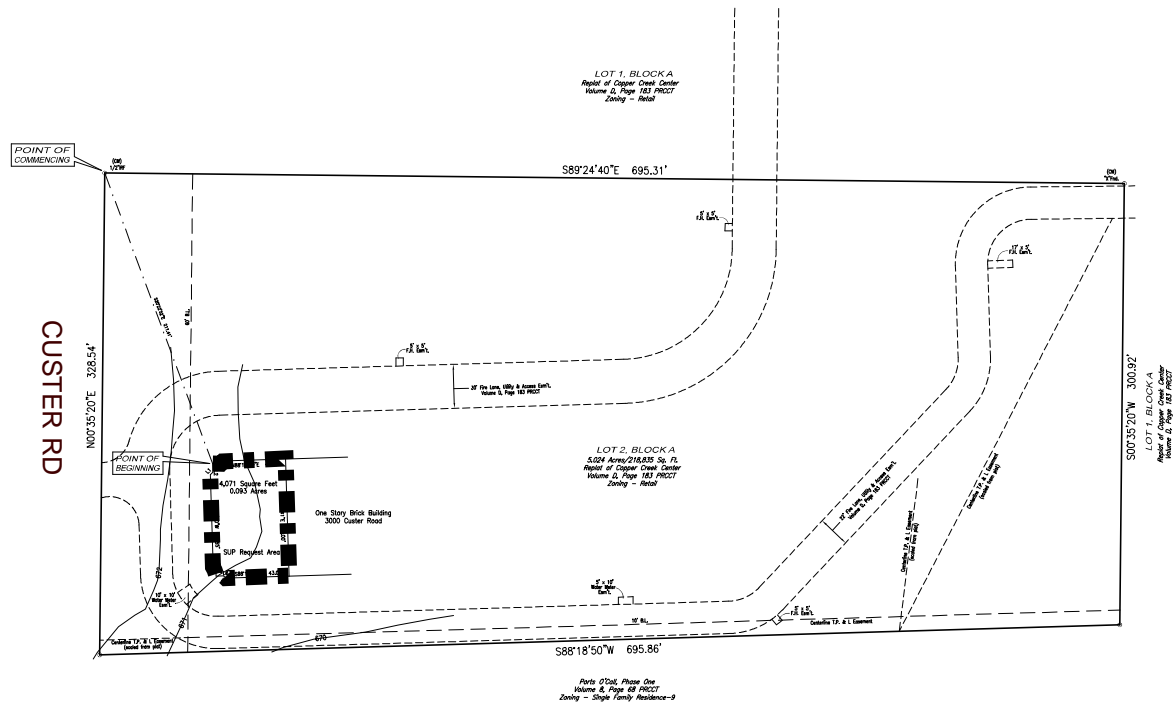
PORTS O CALL DR



Zoning Case 2020-028

 Area of Request

0 115 230
Feet



Metes and Bounds Description

SITUATED in the State of Texas, County of Collin and City of Plano, being part of the John Beverly Survey, Abstract No. 78, being part of Lot 2, Block A of the Replat of Copper Creek Center, an addition to the City of Plano, Collin County, Texas, according to the plat thereof recorded in Volume D, Page 183 of the Plat Records of Collin County, Texas and being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod found for corner in the east right-of-way line of Custer Road and marking the northwest corner of said Lot 2;

THENCE crossing said Lot 2, South 20°22'52" East, 211.41 feet to a point in the north facing of a one story brick building marking the POINT OF BEGINNING;

THENCE with the north facing of said building as follows:

North 88°13'20" East, 5.65 feet,

North 43°49'43" East, 2.45 feet, and

North 88°16'19" East, 42.39 feet to a point for corner;

THENCE crossing through said building, South 01°43'41" East, 80.00 feet to a point for corner in the south facing of said building;

THENCE with the south facing of said building as follows:

South 88°16'19" West, 43.05 feet,

North 47°45'08" West, 2.38 feet, and

South 88°16'19" West, 5.00 feet to the southwest corner of said building;

THENCE with the west facing of said building as follows:

North 01°11'43" West, 3.98 feet,

North 46°52'40" West, 2.42 feet,

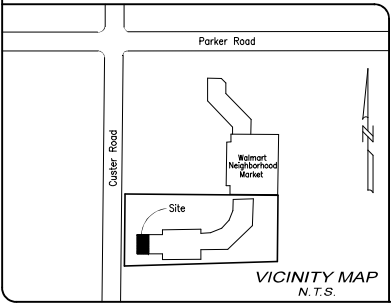
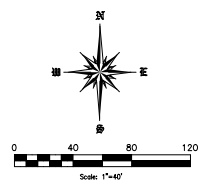
North 01°46'40" East, 63.55 feet,

North 43°43'32" East, 2.40 feet, and

North 01°46'40" West, 5.71 feet to the Point of Beginning and containing 4,071 square feet or 0.093 acres of land.

Legend	
Replat of Copper Creek Center	Replat of Copper Creek Center
Water	Water
Sanitary Sewer	Sanitary Sewer
Channel	Channel
No Parking	No Parking

LINE	BEARING	DISTANCE
L1	N43°43'32"E	2.40
L2	N01°46'40"W	5.71
L3	S88°16'19"W	43.05
L4	N43°49'43"E	2.45
L5	N47°45'08"W	2.38
L6	S88°16'19"W	5.00
L7	N01°11'43"W	3.98
L8	N46°52'40"W	2.42



Tenant	Owner	Surveyor
The Franchise Grill & Bar 3000 Custer Road, Suite 345 Plano, TX 75075 972-599-7598 Attn: Mike Brignoli	EQYInvest Owner I, Ltd, LLP 4125 NW 80th Avenue Sunrise, FL 33351 817-478-9400 Attn: Stephanie Rippe	Roome Land Surveying 2000 Avenue G, Suite 810 Plano, Texas 75074 Ph: (972) 423-4372 Fax: (972) 423-7523 Attn: Michael Cuzzo

Note: Approval of the zoning case associated with this exhibit shall not imply approval of any associated study, plot, or plan, approval of development standards shown hereon, or the initiation of the development process. Planning and Zoning Commission and/or City Council action on studies, plots or plans relating to development of this property shall be considered as an action separate from action taken on this zoning case.

Notes: 1) This survey has been performed without the benefit of a title commitment. 2) Surveyor's signature will appear in red ink on certified copies. 3) Contour lines hereon taken from the Collin County, Texas GIS maps and not a product of or on the ground survey. 4) Source bearing per the plat of Copper Creek Center recorded in Volume D, Page 183 of the Plat Records of Collin County, Texas.

City Project #ZC2020-028
Zoning Exhibit
4,071 Square Feet or 0.093 Acres
Part of Lot 2, Block A
Replat of Copper Creek Center
 Recorded in Volume D, Page 183 PRCCCT
 John Beverly Survey, Abstract No. 78
 City of Plano, Collin County, Texas
 November 2020

P:\ES\202004\ES670651.DWG

Roome
Land Surveying
2000 Avenue G, Suite 810
Plano, Texas 75074
Phone (972) 423-4372 / Fax (972) 423-7523
www.roome-surveying.com / Firm No. 10013100

**Franchise Bar Management, LLC
d/b/a Plano Sports Tavern
3000 Custer Road, Suite 345, Plano TX 75075**

Zoning Case: ZC2020-028

PURPOSE FOR APPLICATION:

The applicant operates a restaurant and bar. The portion of the business' revenue generated by alcohol sales occasionally exceeds 60% (but never more than 65%) and thus no longer qualifies to hold a Mixed Beverage Restaurant Permit. TABC has advised the business to obtain a private club registration permit.

The business operates a full restaurant on site with dining room, a full commercial kitchen and serves lunch and dinner every day with a menu that features several entrees, sides, appetizers and desserts. Thus the private club will meet the requirement of a minimum of 35% of the gross sales being derived from the sale of food as defined in Article 15.1000.2.c of the zoning ordinance.

In order to certify compliance with this provision in a transparent fashion, Plano Sports Tavern (the applicant) will maintain copies of all receipts to provide proof of food sales occurring at the venue as well as maintain complete sales histories of all alcoholic beverages, which records will be stored and available to representatives of the city of Plano for audit during business hours.

Very truly yours,



Stephen B. Lindsey

Agent/Franchise Bar Management, LLC & EQYINVEST Owner I Ltd., LLP