

ORDINANCE NO. 731

AN ORDINANCE OF THE CITY OF ADDISON, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF ADDISON, AS HERETOFORE AMENDED, SO AS TO GRANT SPECIAL USE ZONING FOR A RESTAURANT WITH THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION LOCATED WITHIN ADELSTEIN'S PLAZA, 15501 DALLAS PARKWAY, ON APPLICATION FROM AGNEW'S RESTAURANT, CASE #638, AND BEING MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; PROVIDING FOR SPECIAL CONDITIONS; PROVIDING FOR A PENALTY; PROVIDING FOR NO SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

WHEREAS, the City Planning Commission of the City of Addison, and the Governing Body of the City of Addison, in compliance with the laws of the State of Texas with reference to the granting of zoning changes under the zoning ordinance and zoning map, have given requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to all persons interested and situated in the area, the City of Addison, Texas, is of the opinion that the Special Use Zoning (25c) and (25e) on application from Agnew's Restaurant, Case #638, tax description #1-15-0005 should be amended in the exercise of its legislative direction, now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ADDISON, TEXAS:

SECTION 1. That the Comprehensive Zoning Ordinance of the City of Addison, Texas, as heretofore amended, by amending the zoning map of the City of Addison, Texas, so as to grant special use zoning for a restaurant with the sale of alcoholic beverages to be located within Adelstein's Plaza, 15501 Dallas Parkway. Said special use zoning shall be granted, subject to special conditions, on the following described property, to-wit:

TRACT I:

BEGINNING at a point, said point being in the intersection of the north right-of-way line of Arapaho Road (115 foot R.O.W. at this point) and the west right-of-way line of Dallas Parkway (200 foot R.O.W.);

THENCE South  $72^{\circ}05'09''$  west along the North right-of-way of said Arapaho Road (80 feet R.O.W. at this point) for a distance of 103.88 feet to a point;

THENCE South  $85^{\circ}25'21''$  west along the North right-of-way of said Arapaho Road (80 foot R.O.W. at this point) for a distance of 177.18 feet to a point, said point being the point of curvature of a curve to the left whose delta is  $19^{\circ}48'28''$  and whose radius is 830.96 feet;

THENCE Southerly along said curve for a distance of 287.27 feet to a point;

THENCE North  $26^{\circ}03'54''$  west for a distance of 410.51 feet to a point, said point also being located in the South right-of-way of St. Louis and Southwestern Railroad (100 foot R.O.W.);

THENCE North  $66^{\circ}12'00''$  East along said South right-of-way of the St. Louis and Southwestern Railroad (100 foot R.O.W.), for a distance of 706.12 feet to a point, said point also being located in the West right-of-way line of said Dallas Parkway;

THENCE South  $13^{\circ}45'00''$  East along said West right-of-way line of Dallas Parkway for a distance of 107.37 feet to a point, said point being the point of curvature of a curve to the right whose delta is  $11^{\circ}25'11''$  and whose radius is 2191.83 feet;

THENCE Southerly along said curve for a distance of 436.86 feet to the point, said point also being the POINT OF BEGINNING;

CONTAINING 299,727.03 square feet or 6.881 acres of land.

TRACT II:

A 1.117 acre tract of land out of the G. W. Fisher Survey, Abstract No. 482 and the R. Wilburn Survey, Abstract No. 1580, and being part of a 104.05 acre tract described as First Tract in Deed, recorded in Volume 2465, Page 413 of the Deed Records of Dallas County, Texas on March 24, 1944, said tract being more particularly described as follows:

COMMENCING at a point, said point being the intersection of the North right-of-way line of Arapaho Road (115 foot R.O.W. at this point) and the West right-of-way line of Dallas Parkway (200 foot R.O.W.);

THENCE South  $72^{\circ}05'09''$  West along the North right-of-way of said Arapaho Road (80 foot R.O.W. at this point) for a distance of 103.88 feet to a point;

THENCE South  $85^{\circ}25'21''$  West along the North right-of-way of said Arapaho Road (80 foot R.O.W. at this point) for a distance of 177.18 feet to a point, said point being the point of curvature of a curve to the left whose delta is  $19^{\circ}48'28''$  and whose radius is 830.96 feet and a tangent length of 145.08 feet;

THENCE Southwesterly along said curve for a distance of 287.27 feet to the POINT OF BEGINNING, said point also being the point of curvature of a curve to the left whose central angle is  $01^{\circ}40'07''$ , a radius of 830.96 feet and a tangent length of 12.10 feet;

THENCE Southwesterly along said curve for a distance of 24.20 feet to a point;

THENCE South  $63^{\circ}56'46''$  West along said North right-of-way of said Arapaho Road for a distance of 93.80 feet to a point;

THENCE North  $26^{\circ}03'10''$  West for a distance of 414.80 feet to a point for corner, also being located in the South right-of-way line of St. Louis and Southwestern Railroad (100 foot R.O.W.);

THENCE North  $66^{\circ}12'00''$  East along said South right-of-way of the St. Louis and Southwestern Railroad (100 foot R.O.W.) for a distance of 118.00 feet to a point;

THENCE South  $26^{\circ}03'56''$  East for a distance of 410.51 feet to a point, said point also being the POINT OF BEGINNING;

CONTAINING 48,655.69 square feet 1.117 acres of land.

SECTION 2. That the above special use zoning is granted subject to the following conditions, to-wit:

1) That prior to the issuance of a Certificated of Occupancy, said property shall be improved in accordance with the site plan, landscape plan, and the elevation drawings showing four exterior walls which are attached hereto and made a part hereof for all purposes. The landscaping of such property will be maintained in such condition as approved prior to the certificate of occupancy.

2) That the Special Use Permit granted herein shall be limited to:

Sale of alcoholic beverages for on-premises consumption only and to that particular area designated on the final site plan as being outlined in red and encompassing a total not to exceed \_\_\_\_\_ sq. ft.

3) No signs advertising sale of alcoholic beverage shall be permitted other than those authorized under the Liquor Control Act of the State of Texas, and any sign ordinance of the City of Addison, Texas, as well as the approved elevations of the building.

4) That the sale of alcoholic beverages under this special use permit shall be permitted in restaurants. Restaurants is hereby defined as establishments which receive at least sixty percent (60%) of their gross revenues from the sale of food

5) Said establishment shall make available to the city of its agents, during reasonable hours its bookkeeping records for inspection, if required by the city to insure that the conditions of Paragraph 4 are being met.

6) The use of gaming devices, such as billiards (pool) tables, pinball machines, marble tables, and other coin operated amusement machines, other than machines for music are hereby prohibited. This also includes dancing.

7) Any use of property considered as a nonconforming use under the Comprehensive Zoning Ordinance of the City of Addison shall not be permitted to receive a license or permit for the sale of alcoholic beverages.

8) That if the property for which the special use permit is granted herein is not used for the purposes for which said permit was granted within one (1) year after the adoption of this ordinance, the City Council may authorize hearings.

9) That if a license or permit to sell alcoholic beverages on property covered by this special use permit is revoked, terminated or cancelled by proper authorities, the City Council may authorize hearings to be held for the purpose of considering a change of zoning.

SECTION 3. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Hundred Dollars (\$200.00) for each offense and that each day such violation shall continue to exist shall constitute a separate offense.

SECTION 4. That it is the intention of the City Council that this ordinance be considered in its entirety, as one ordinance, and should any portion of this ordinance be held to void or unconstitutional, then said ordinance shall be void in its entirety, and the City Council would not have adopted said ordinance in any part or portion of said ordinance should it be held to be unconstitutional or void.

SECTION 5. The fact that the sale of alcoholic beverages in the City of Addison is authorized only under special use permits as provided for in the Comprehensive Zoning Ordinance of the City of Addison, and the City Council

having found that the property described herein is suitable for such use should it be granted, this ordinance shall become effective from and after its adoption, and publication of the caption of said ordinance, as the law in such cases provides.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF ADDISON, TEXAS, this the 27 day of October, 1981.

*[Signature]*  
MAYOR

ATTEST:

*Jacqueline Sharp*  
CITY SECRETARY