



**FARMERS
BRANCH**

ORDINANCE NO. 3003

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP OF THE CITY OF FARMERS BRANCH, TEXAS, AS HERETOFORE AMENDED; BY AMENDING PLANNED DEVELOPMENT NO. 8 (PD-8) BY GRANTING A CHANGE IN ZONING TO GRANT A SPECIFIC USE PERMIT-INTERIM USE FOR A PERIOD OF THREE (3) YEARS TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN A QUALIFIED RESTAURANT ON AN APPROXIMATELY 3.9-ACRE TRACT OF LAND LOCATED AT 12895 JOSEY LANE, SUITE 225 AND BEING FURTHER DESCRIBED IN EXHIBIT "A"; PROVIDING SPECIAL CONDITIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) ; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant in Zoning Case No. 08-SU-03 has agreed to be bound by the terms of their application for zoning and the provisions contained in the Comprehensive Zoning Ordinance concerning the granting of a Specific Use Permit-Interim Use; and

WHEREAS, the applicant has committed that the value of any improvements to be constructed or installed pursuant to this ordinance will be fully amortized prior to the expiration of the specific use permit-interim use; and

WHEREAS, the City Council finds that the proposed use is consistent with existing uses of adjacent and nearby property;

WHEREAS, the City Council finds proposed use is not consistent with: (a) the reasonably foreseeable uses of adjacent and nearby property anticipated to be in place upon expiration of the term of the Specific Use Permit-Interim Use; and (b) the use of the property contemplated by the City's Comprehensive Plan, as in effect on the date of granting said permit; and

WHEREAS, the City Council finds that the proposed use will not impair development of adjacent and nearby property in accordance with said Comprehensive Plan during the period for which the Specific Use Permit- Interim Use is in effect; and

WHEREAS, the City council finds that the proposed use will not adversely affect the City's Thoroughfare Plan and traffic patterns, as in effect at the time of granting of said permit, and as contemplated by the City's Comprehensive Plan; and

WHEREAS, the City Council finds that any investment contemplated to be made by the applicant in the property subsequent to or in reliance upon the issuance of the permit may reasonably be expected to be recovered prior to the expiration date of the permit; and

WHEREAS, the City Council finds that the expiration date of said permit set forth herein is a date subsequent to the expiration of the time for recovery of the applicant's investment in the property, as specified by the applicant pursuant to Section 8-451(3) of the Comprehensive Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission of the City of Farmers Branch and the governing body of the City of Farmers Branch, in compliance with the laws of the State of Texas and the ordinances of the City of Farmers Branch, have given requisite notice 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 affected area and in the vicinity thereof, the governing body, in the exercise of the legislative discretion, has concluded that the Comprehensive Zoning Ordinance and Zoning Map should be amended;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS

SECTION 1. That the Comprehensive Zoning Ordinance and zoning map of the City of Farmers Branch, Texas, as heretofore amended be, and the same are hereby amended, by amending Planned Development No. 8 (PD-8) by granting a change of zoning to grant a Specific Use Permit-Interim Use, with special conditions for a period of three (3) years, expiring on November 4, 2011, to allow the sale of alcoholic beverages for on-premises consumption in a qualified restaurant located on an approximately 3.9-acre tract of land commonly known as 12895 Josey Lane, Suite 225 (2900 Valley View Lane) and being further described in Exhibit "A" attached hereto and incorporated herein for all purposes.

SECTION 2. That the Specific Use Permit-Interim Use granted herein is subject to the following special conditions:

1. The property shall be developed and used only in accordance with the Site Plan, Floor Plan attached as Exhibit "B", attached hereto, and which is hereby approved.
2. The specific use permit is limited to a qualified restaurant operated by Izalco Restaurante Salvadoreño and shall expire on November 4, 2011.
3. The property shall be developed and used in accordance with the Alcohol Awareness Program Attached as Exhibit "C" and incorporated herein

SECTION 3. That the above described property shall be used only in the manner and for the purposes provided for in the Comprehensive Zoning Ordinance of the City of Farmers Branch, as heretofore amended, and as amended herein.

SECTION 4. That the above described property shall be used only in the manner and for the purpose provided by the Comprehensive Zoning Ordinance of the City of Farmers Branch as herein amended by the granting of a Specific Use Permit-Interim Use and approval of an associated site plan to allow the sale of alcoholic beverages for on-premises consumption in a qualified restaurant in accordance with the approved site plan attached as Exhibit "C", the Plan of Operation attached as Exhibit "D", and the Alcohol Awareness Program attached as Exhibit "E",

SECTION 5. That all provisions of the ordinances of the City of Farmers Branch in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Farmers Branch not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 6. That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

SECTION 7. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Comprehensive Zoning Ordinance, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

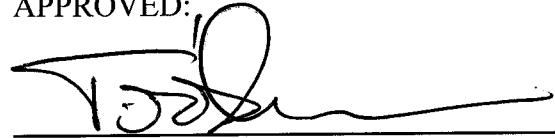
SECTION 8. That any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City of Farmers Branch, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 9. In addition to and accumulative of all other penalties, the City of Farmers Branch shall have the right to seek injunctive relief for any and all violations of this ordinance.

SECTION 10. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such case provide.

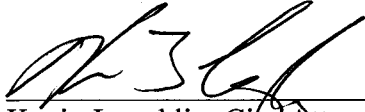
DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, on this the 4th day of November, 2008.

APPROVED:



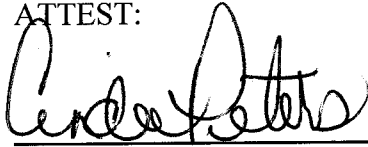
Tim O'Hare, Mayor

APPROVED AS TO FORM:



Kevin Laughlin, City Attorney

ATTEST:



Cindee Peters, City Secretary

Exhibit "A"

12895 Josey Lane, Suite 225

2900 Valley View Lane
Farmers Branch Shopping Center
Lot 1 Block 0 3.939 acres
CO-Dallas

075000000000001 12407500000

Exhibit "C" (SITE PLAN)

FARMERS BRANCH
SHOPPING CENTER - WEST
17695 JOSEY LANE

- ◊ - DUMPSTERS
- 🌳 - TREES
- - LIGHT POLES
- - FLOWER BOXES

SITE PLAN

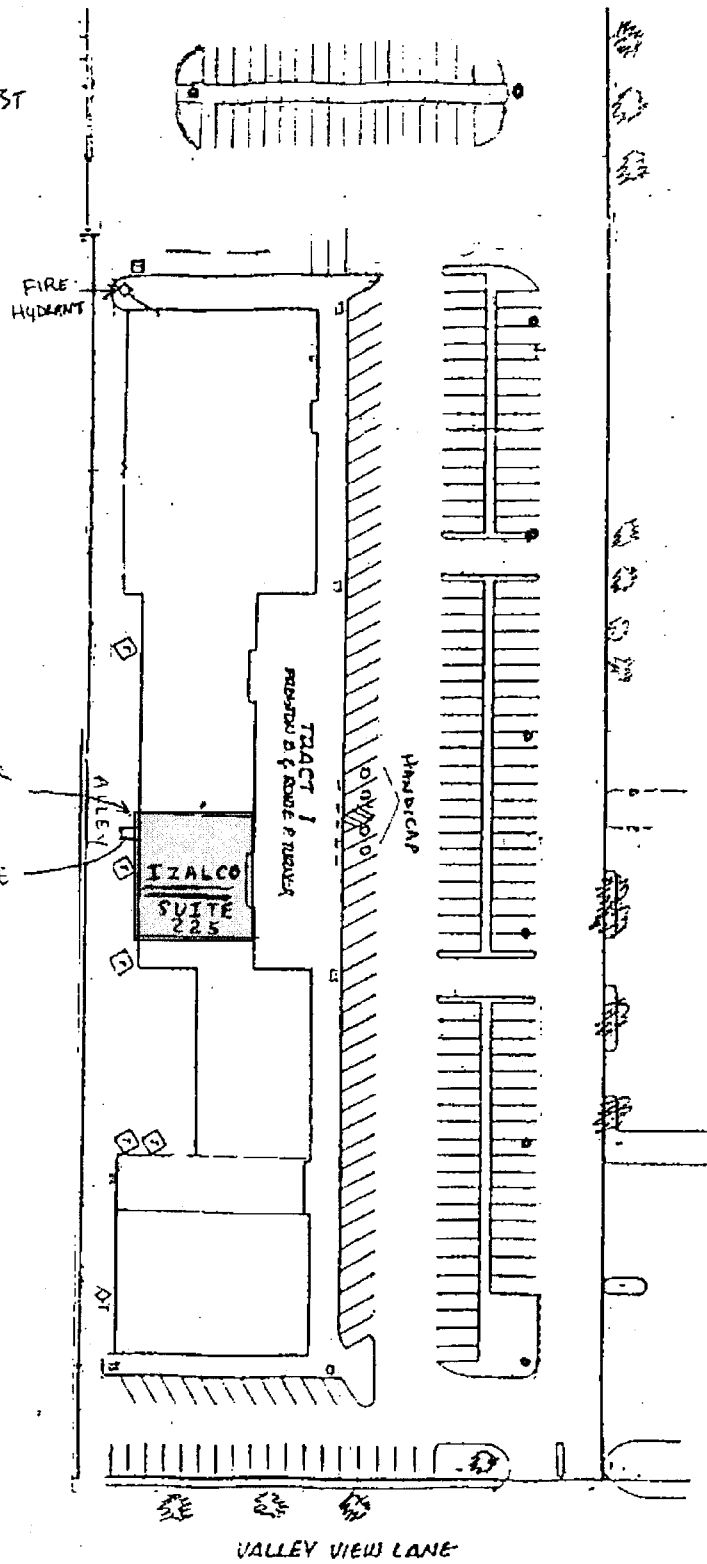


Exhibit "C" (SITE PLAN/Floor Plan)

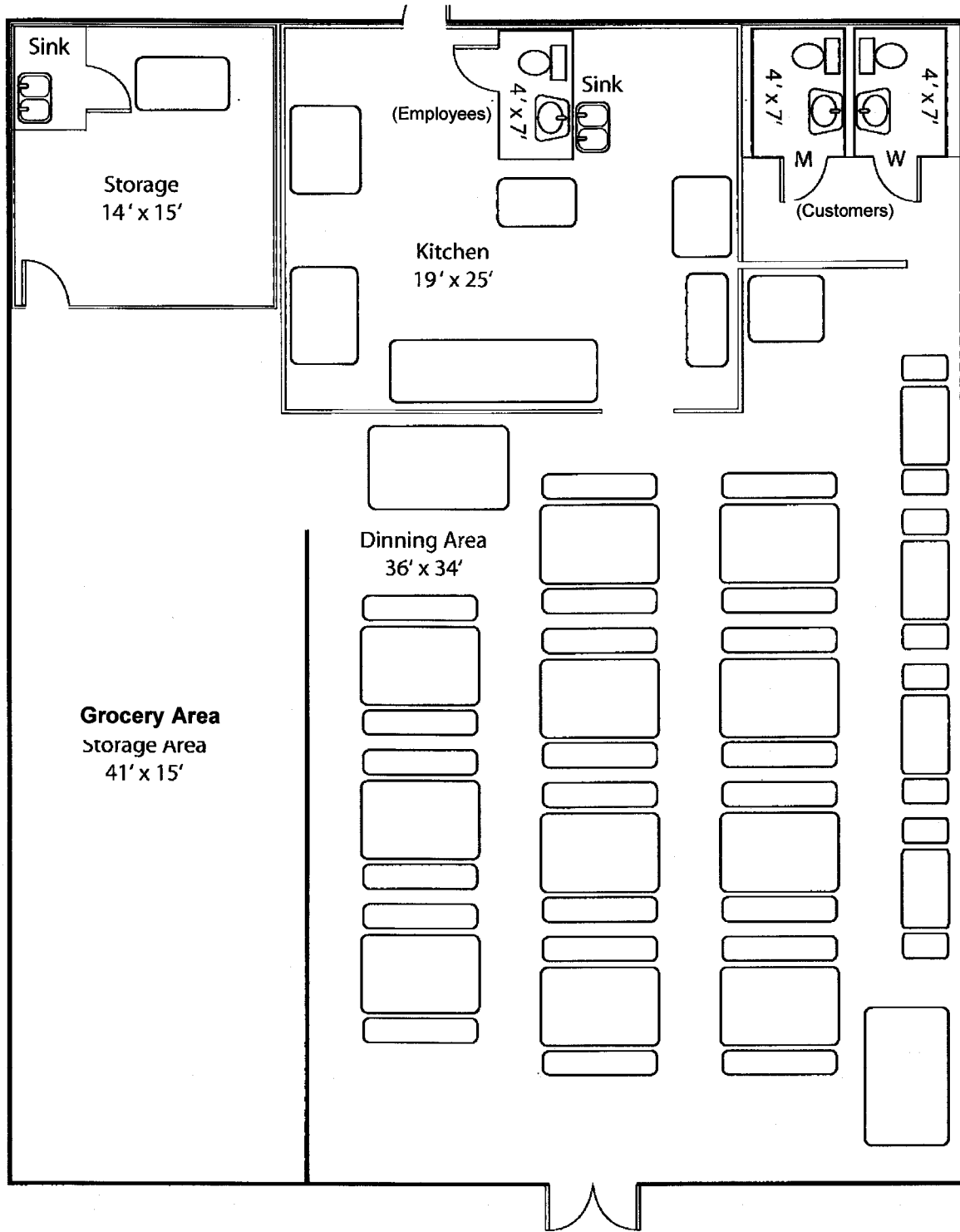


Exhibit "D" (PLAN OF OPERATION)



Planning & Zoning Commission of the City of Farmers Branch
Application for Specific Use Permit

PLAN OF OPERATION

All non-residential uses must provide the following information with the application:

Describe proposed use Salvadorian Restaurant -
Sale of alcoholic Beverages (Beer + Wine
only) within Restaurant

Indicate hours of operation of the proposed use open 7 days a week;
10AM - 10PM; sale of alcohol (Beer + Wine) the same

Total number of employees 12-14

Indicate if any storage is proposed outside the building N/A

Indicate if any activity is proposed outside the building N/A

Any other relevant unique information on the business or site N/A

Exhibit "E" ALCOHOL AWARENESS PROGRAM

Izalco
Restaurante Salvadorenio
12895 Josey Lane, Suite 225
Farmers Branch, TX 75234

Alcohol Awareness Program

Izalco Restaurante requirements for alcohol service are as follows:

- 1.) Izalco Restaurant will require wait staff and managers to attend a State approved alcohol-serving program. The program will be approved by the Alcoholic Beverage Code.
- 2.) Izalco Restaurant wait staff and managers will take a written examination at the completion of the State approved alcohol serving program.
- 3.) Customers will provide a legal picture ID that will consist of one of the following: Driver's License, Military ID, State ID or Passport upon request.
- 4.) Izalco Restaurant manager will be on duty to ascertain whether or not a customer will be served alcohol.
- 5.) Izalco Restaurant will abide by the Texas Penal Code.
- 6.) Izalco Restaurant will abide by the Texas Alcoholic Beverage Code.
- 7.) All of Izalco Restaurant employees who directly or indirectly handle alcoholic beverages will be at least 18 years of age.
- 8.) Only Izalco Restaurant wait staff will serve alcoholic beverages and all alcoholic beverages will be served for consumption inside the restaurant only.
- 9.) All customers who purchase alcohol beverages must be at least 21 years of age.
- 10.) Alcoholic Beverage will not be sold, served or delivered to any person who is, or is believed to be intoxicated.
- 11.) Anyone that is or is believed to be intoxicated will not be permitted to remain on the premise.
- 12.) Izalco Restaurant will call a cab to transport anyone who is, or believe to be intoxicated.

Exhibit "E" (ALCOHOL AWARENESS PROGRAM-continued)

- 13.) Any unlawful acts will be reported to the police.
- 14.) No alcoholic beverage will be sold before opening.
- 15.) No alcoholic beverages will be sold after closing.
- 16.) Izalco Restaurant will not hang any exterior signs advertising the sell of alcohol
- 17.) Izalco Restaurant gross sell of food shall be at least 60% of gross sales for each quarterly reporting period.
- 18.) Izalco Restaurant shall maintain and keep records necessary to demonstrate compliance with the minimum 60% food and non alcoholic beverage sales of the restaurant total gross sales.