

Z-21-0004

**ARTICLE NINE  
Unified Development Code**

Adopted: July 7, 2015



**Section 9.02 - Application Forms**

**ZONING CHANGE APPLICATION**

**SECTION 1. APPLICANT/OWNER INFORMATION**  
**Please Print or Type**

Applicant/Developer: Jim Makeus  
Street Address: 3231 Harwood  
City: Bedford State: TX Zip: 76021  
Telephone: 214-957-8284 Fax: \_\_\_\_\_ E-mail: jim@makeus.com  
Applicant's Status: (Check One) Owner  Tenant  Prospective Buyer

**Property Owner must sign the application or submit a notarized letter of authorization.**

Owner: Grapevine/Wall J.V.  
Street Address: 3231 Harwood Rd  
City: Bedford State: TX Zip: 76021  
Telephone: 214-957-8284 Fax: \_\_\_\_\_ E-mail: jim@makeus.com

Signature of Applicant: [Signature] Signature of Owner: [Signature] Printed Name of Owner: JIM MAKEUS  
Date: 3-8-2021 Date: 3-8-2021

Engineering Firm: McAdams Contact Name: Doug Powell  
Street Address: 201 Country View Drive  
City: Romney State: TX Zip: 76262  
Telephone: 469-312-0623 Fax: \_\_\_\_\_ E-mail: dpowell@mcadamsco.com

**SECTION 2. ZONING CHANGE REQUEST INFORMATION**

Property Location: 920 + 940 Keller Pkwy. Keller Texas 76248  
Legal Description: 4+5R  
Lot(s): 1 Block(s): 1 Subdivision Name: Town Center East  
Unplatted Property Description: A-28  
Abstract Name & Number: Pamela Allen Tract Number(s): \_\_\_\_\_  
*If property is not platted, please attach a metes and bounds description.*  
Current Zoning: TC Proposed Zoning: R  
Current Use of Property: Shopping center + vacant land  
Proposed Use of Property: shopping center

Justification for Requested Zoning Change:  
**A detailed letter of justification and/or exhibits shall accompany this application.**

**ZONING CHANGE APPLICATION**

**SECTION 3. CHECKLIST**

**(Please provide each of the items below & initial next to each item or write N/A)**

<input checked="" type="checkbox"/>	The application fee	#350 + #10 Acre
<input type="checkbox"/>	Seven (7) 22" x 34" or 24" x 36" copies are needed, collated and folded to 9" x 12" paper size; electronic copy is recommended upon submittal date.	
<input checked="" type="checkbox"/>	<p>A narrative statement that includes:</p> <ul style="list-style-type: none"> <li>• Current and proposed zoning or use</li> <li>• A statement of the need for the proposed zoning change</li> <li>• Compatibility of proposed zoning with surrounding zoning and land uses.</li> <li>• Descriptions that show in what ways the proposal is consistent with the City's Master Plan.</li> <li>• You may also choose to address the decision criteria on with the Planning and Zoning Commission and City Council will base their decision.             <ol style="list-style-type: none"> <li>1) Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole, and in compliance with the Future Land Use Plan.</li> <li>2) Whether the proposed change is in accord with any existing or proposed plans for providing streets, water supply, sanitary sewers, and other utilities to the area, and shall note the findings.</li> <li>3) The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.</li> <li>4) The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.</li> <li>5) How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved.</li> <li>6) Any other factors which will substantially affect the health, safety, morals, or general welfare.</li> </ol> </li> </ul>	
<input type="checkbox"/>	A metes and bounds description of the property to be rezoned sealed by a surveyor.	
<input type="checkbox"/>	A 24" by 36" scaled exhibit showing the subject property with metes and bounds labels and important physical features such as existing structures, topography, roadways, or creeks.	
<input type="checkbox"/>	A 24" by 36" aerial exhibit of the subject property showing the locations of trees in accordance with Section 8.19	
<input type="checkbox"/>	Any drawings the applicant considers necessary to demonstrate the case for rezoning. Drawings of the site should to scale.	
<input type="checkbox"/>	Evidence of communicating the proposal with the adjacent neighborhood	
<input type="checkbox"/>	Additional information or drawings, operations data, or expert evaluation when considering the application, including traffic studies and drainage studies as required by the Development Review Committee	

May 14, 2021

Julie Smith  
Community Development Director  
City of Keller  
1100 Bear Creek Parkway  
Keller, TX 76248

Dear Ms. Smith,

Please find the attached application for rezoning of approximately 6.2 acres known as Lot 4 and Lot 5R, Block 1 in the Town Center East addition, Keller, Tarrant county, Texas. This property is plated and also known as 940 and 920 Keller Parkway, Keller Texas, 76248.

The current use of the property is a retail strip center that is anchored by a Kroger grocery store. The request is to change the current zoning of Town Center (TC) to Retail (R). No changes to the site are proposed at this time although the site is not built out.

#### **HISTORY**

The shopping center was constructed by me in 1997. At the time Kroger, a bank and McDonald's existed at the intersection of Keller Pkwy and Rufe Snow. The center was built in conformity with the TC ordinances at the time. In 1999, Tom Thumb started the development process next door which was also in TC zoning. This provided the City an opportunity to establish a new vision for a new Town Center. Tom Thumb was the only development in the "new" Town Center and a new City Hall followed soon after.

At the same time, a TIF district was also established to help finance this new Town Center. I emphasize "new" because although my property is zoned TC, it is not part of the new Town Center idea. This is evident in your own UDC illustration of the area included with in Town Center. In 2012, I partnered with Kroger to renovate the exterior of the center. We were not asked to do this, we wanted to contribute to the beatification of the area. Keller's UDC was again modified in August 2002, December 2008, and most currently July 2015. None of these previous modifications to the UDC impacted me like the 2015 modification.

The 2015 change dramatically modified the uses within the TC zoning classification. The update to the UDC was a massive undertaking and upon reviewing the archived recordings of these City Council meetings it was noteworthy that they lasted for 4-5 hours. Specifically, I was looking for some discussion as to why medical uses were no longer allowed in TC zoning. Also, I was never notified of these changes and I know the City Council during this time was under the impression that stakeholders within TC zoning had been notified and their input taken into consideration.

The UDC update was first introduced to council as new business on 5/5/2015 and approved on 7/7/2015. Council was told that the use tables were modified to meet the Purpose statement, however the Purpose statement has not changed for 20 years for the TC zoning district. I recently signed an LOI with a national allergist that was planning on relocating from Fort Worth into the Urgent Care for Kids space. The tenant shortly thereafter informed me that they were told by the city that

medical uses were not allowed since 2015. I found this very odd because I signed a lease with a dentist in 2017 and they were allowed into the center.

### **NEED FOR RETAIL ZONING**

Medical and other service uses are an integral use within shopping centers today, and they will become more common as the American population ages. One third of my center is currently occupied by medical uses. Retailers are the minority among shopping center tenants today as they can no longer pay the higher rents in shopping centers in addition to the cost of real estate taxes, insurance and common area maintenance. These additional costs are approaching an additional 30-40% of the rent. However, the largest change for retail uses is the impact of on-line shopping. Internet shopping sales has increased from 5.1% of total retail sales in 2007 to over 21% in 2020. This trend is NOT going to reverse any time soon. Amazon recently purchased 33% of the total structural steel output for the entire United States for both 2021 and 2022. They are building over 1,500 new massive warehouses across the country. Without medical uses the vacancy in this center will rise. The remaining allowed uses in TC zoning which are not restricted by covenants of the shopping center are either impractical or outdated uses such as office, copy shop, and dry cleaning. My remaining allowed uses are retail, art studio/ gallery, dance studio, optical store and restaurant (I am limited by on site required parking).

The General Purpose and Description of the TC district is "The form of development is compact with tightly grouped buildings arranged around a connected street and side walk network that serves vehicle, pedestrian and bicycle transportation." ... "The Master Plan for Town Center is a conceptual layout of buildings, street, buffers, landscaping and open space within the Town Center district (this illustration in the UDC specifically excludes my property)" ... "Uses in Town Center district shall be generally pedestrian oriented and encourage pedestrian traffic. Uses with drive-through lanes are discouraged in Town Center..." This center was developed with Kroger as the main draw to the center. Kroger draws from a 2.5 to 3 mile radius. This center was never designed to be a pedestrian traffic center. At the time this property was developed the closest resident was a half mile away.

My development was built before these standards were created. My development is a traditional shopping center like the many other shopping centers located in Keller. It is not any different than the Big Lots center that "bookends" the Town Center on the east or the other Kroger center in Keller. My center does not remotely meet the TC Design Standards described in Article 8 of the UDC. The many changes made to TC district since I developed my property have simply made my property non-conforming in design and now in use. To redevelop this center to meet the TC ordinance would be impractical, because this property consists of 6 different property owners. This zoning district has placed my property at a huge, unfair dis-advantage with competing shopping centers located within blocks of me.

"The Retail Zoning district is established to provide locations for various types of general retail trade, business and service uses. The district allows shopping areas with a gross leasable floor area which exceeds six thousand feet (those not permitted in the NS District)". I meet the General Purpose and Description statement of Retail which happens to be very similar to the TC standards when the property was developed. Retail also allows for medical and dental uses, dog grooming and does not discourage drive thru's. I mention these uses because Hollywood Feed is a current tenant and they are expanding nationwide by adding dog grooming. I can't accommodate them under the City's regulations and they will leave. I also have a non-conforming dentist; can she sell her business when she retires? I have signed an LOI with new concept "Salads to Go", which is a 2,000 sf drive thru national salad bar chain.

The City has been trying to put a square peg in a round hole since 1999. The property is not going to redevelop or change its appearance because the TC district has changed its criteria. My center will likely take a turn for the worst and we will end up with church type uses and vacancies.

#### **COMPATIBILITY WITH SURROUNDING USES**

Retail zoning and its permitted uses are compatible with the surrounding uses. My northern boundary consists of three drive thru fast food uses and two strip centers, a warehouse on my western boundary, a movie theater to my south and a Tom Thumb shopping center to the east. With the exception of the warehouse all of these uses are commonly found together in Retail zoning in Keller and the surrounding NE Tarrant county trade area.

#### **CONCLUSION**

The allowed uses taken away from me within the TC zoning district have severely impacted my ability to maintain 100% occupancy. I sincerely ask that the City Council rezone my site to Retail.

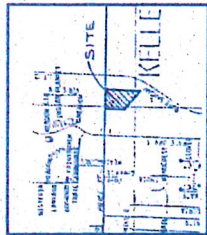
Sincerely,



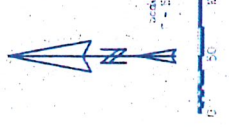
Jim Makens  
3231 Harwood Rd  
Bedford TX 76021



Boundary Boundary



**Vicinity Map**  
Scale: 1" = 100'



**General Notes:**

- A. All corners are 5/8" iron pins with caps.
- B. Lot Areas
- C. These lots are divided into 100' x 100' blocks.

**Surveyor:**

Area Surveyed by  
**CHARLES Z. FORT**  
 500 Congress Hwy, Suite 375  
 Fort Worth, TX 76104  
 817-252-5681

**Engineer:**

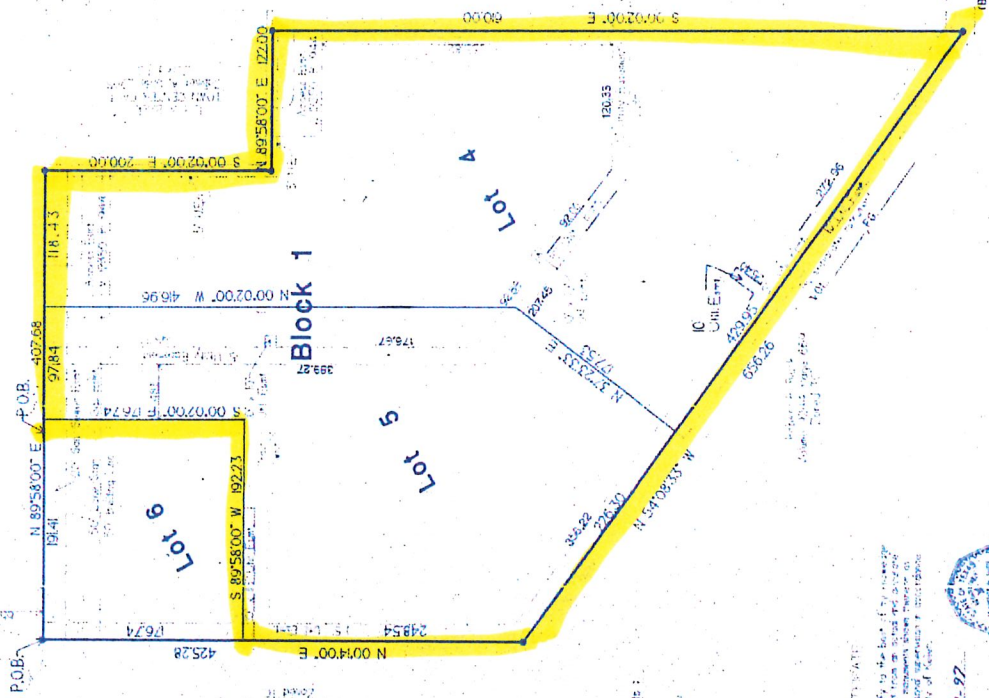
Area Surveyed by  
**CHARLES Z. FORT**  
 500 Congress Hwy, Suite 375  
 Fort Worth, TX 76104  
 817-252-5681

1. I certify that I have personally supervised the surveying and that the same has been made in accordance with the laws of the State of Texas and the rules and regulations of the State Board of Surveying and Mapping.



**Charles Z. Fort** 1-9-97  
 Engineer # 12345, No. 500

**F.M. Highway No. 1709**



Approved  
**Planning & Zoning Commission**  
 City of Keller

APPROVED  
 CITY OF KELLER  
 DATE

**Town Center East,**  
 An Addition to the City of Keller,  
 Tarrant County, Texas.

**AREA SURVEYING, INC.**  
 Registered Professional Land Surveyors  
 1000 W. Highway 1709, Suite 375, Fort Worth, Texas 76104

**STATE OF TEXAS**  
**COUNTY OF TARRANT**

**WARRANTS:** The undersigned, Charles Z. Fort, a duly Licensed Professional Land Surveyor in the State of Texas, do hereby certify that the foregoing plat is a true and correct copy of the original survey made by me on the 1st day of September, 1997, and that the same has been made in accordance with the laws of the State of Texas and the rules and regulations of the State Board of Surveying and Mapping.

**WITNESSETH:** My hand and seal this 1st day of September, 1997, at Fort Worth, Texas.

**NOTICE:** The undersigned, Charles Z. Fort, a duly Licensed Professional Land Surveyor in the State of Texas, do hereby certify that the foregoing plat is a true and correct copy of the original survey made by me on the 1st day of September, 1997, and that the same has been made in accordance with the laws of the State of Texas and the rules and regulations of the State Board of Surveying and Mapping.

**WITNESSETH:** My hand and seal this 1st day of September, 1997, at Fort Worth, Texas.