

SUP-22-0036 (1110 Keller Parkway)
City of Keller Planning & Zoning Commission Public Hearing

January 10, 2023

Dear Chairperson and Members of the Planning & Zoning Commission:

We¹ are delighted at the prospect of a new small business owner and neighbor in the Arthouse complex:

- The building to be occupied by the proposed market and self-service eatery has been vacant too long,
- One of the many appealing aspects of our community is the availability of diverse eateries and services.

However, the proposed application presents a number of concerns for residents of homes adjacent to the applicant's building. We request solutions to our concerns to be remedied in a manner that shows mutual respect between the businesses and residents within and adjacent to the Arthouse complex.

Concern 1: Noise Pollution

- Equipment Noise: Noise pollution from FnG Eats continues to interfere with our daily lives.² The applicant's building alterations need to minimize and baffle all equipment noise and must be directed away from our homes. ***Please understand that the applicant's business and delivery hours limit residents to a mere 8 hours of daily silence.***
- Deliveries: The Planning and Zoning Commission has advised us that "City code limits loading and unloading in areas adjacent to residential to 6 a.m. to 10 p.m." We urge strong adherence to this code. Since the applicant was developed under a SUP and operates very close to residences, we request that deliveries be limited to 7 a.m. to 9 p.m., which is in accordance with other City services, such as trash collection.
- Audio Noise: The Planning and Zoning Commission has advised us that "The hours of operation included in the application are 10 a.m. – 10 p.m. and they indicate no outdoor dining. Unless they wanted to modify the building, they could start offering outdoor dining in the future."
 - We request no outdoor music, outdoor dining, or other outdoor activities.

¹This document was prepared by Brenda Daily and represents the consolidated views of multiple residents. Brenda Daily, 1208 Fowler St., Keller TX. Cell: 727-744-3799

²Mark Haffner, City Manager, is taking the lead on resolving this noise pollution. According to Mr. Haffner, Bob Stephenson, co-owner of FnG Eats, has committed to involving a contractor on January 9th and has agreed to resolve the issue. On December 28, 2022, a noise level study conducted by the City confirmed an unacceptable decibel level emanating from the FnG Eats rooftop fan unit as evidenced in videos and site visits by the Code Compliance Officer, Fire Marshall, and Police. For three years, the noise pollution caused by FnG Eats has plagued the peaceful enjoyment of homes and healthy sleep of residents, and we appreciate the earliest resolution of this matter. The continued deterioration of the equipment has considerably increased noise levels over the last 6 months.

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- We also request closing time adjustment from 10 p.m. to 9 p.m. We oppose outdoor dining and the later closing time due to the noise it will generate as well as other concerns as detailed below.

Concern 2: Olfactory Stimulation

- Most of us enjoy occasional fragrant aromatic cuisines. However, it quickly loses its appeal if it is present 7 days a week, from 10 a.m. to 10 p.m. The applicant has indicated a combination of catering and self-service dining, which implies considerable food preparation. The resultant odors will be additive to those already present from other nearby eateries. The proximity of the applicant's building to our homes makes this a larger concern. We urge containment of odors so that they are not present, constant, and invasive before, during, or after business hours.

Concern 3: Light Pollution

- The Planning and Zoning Committee has advised "A photometric plan showing the proposed lighting would be required with the site plan." We oppose security lighting that floods light into areas of our homes where bedrooms and bathrooms are predominantly located. One suggestion is to: 1) require use of "dark sky" lighting fixtures that greatly reduce light pollution and 2) prohibit the use of any lighting that directly impacts residential homes.

Concern 4: Environmental Concerns

- Wildlife Infestation: Food refuse attracts foragers (e.g., rats, opossums, raccoons, coyotes) that increases exposure to rabid animals, infestation of our homes, death or injury to our pets, and pollution to the pond itself. Dumpster and trash receptacle garbage must be contained in a manner that prevents animal and insect infestation. The dumpster must be located behind a locked gate to prevent access by people.
- Litter from Self-service Dining: This suggests customers will eat outside of the applicant's building. The footpath begins at the building site. Our beautiful pond and green lawns are enticing for outdoor eating.
 - We strongly prefer restricted access via a fence and gate to prevent "dining sprawl" around the pond and lawns. Other options include animal-proof trash receptacles around the pond and lawns, and signs clearly stating the fines.

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- Alcohol Permit: Provisions for restricting alcohol consumption in the park area must be established, posted, and enforced.
- Security: Our homes have been relatively secluded. With increased park access, we are susceptible to opportunists. Instances of overnight sleepers in cars have already occurred in the applicant's parking lot and are likely to increase with a market. Security measures are required to protect residents and our homes from burglaries, robberies, and other crimes.

Concern 5: Traffic Patterns and Parking

- Parking: According to the Zoning and Planning Commission "The parking requirement for this project is 1 space per 150 square feet, which comes to 48 spaces. The applicant has 40 spaces plus 4 ADA spaces on site, and has entered into a shared parking agreement for 5 additional spaces with the property owner to the east." This suggests a substantial number of vehicles and pedestrians accessing this site 7 days a week from 10 a.m. to 10 p.m. We are concerned that vehicles will overflow into our residential parking areas. This needs to be controlled.
- Ingress and Egress: Has the City considered the safety of pedestrians and drivers entering and leaving, as traffic patterns for a market and self-service dining are different than that for an eat-in restaurant?
- Building Use: According to the Zoning and Planning Commission "The plans submitted with the SUP application indicate about 700 square feet for self-service dining and the rest of the 6,500 square-foot building dedicated to grocery/market and catering services." This suggests a substantial number of vehicles and pedestrians accessing this site 7 days a week from 10 a.m. to 10 p.m.

Concern 6: Code Compliance

The change from eat-in restaurant to market and self-service dining presents new considerations, including noise and light pollution, litter, wildlife, security, and parking. Please clearly identify the responsible party(ies) for enforcement of each of these areas of concern and provide contact details to residents (e.g., name, phone, email).

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Site Visit

We request that all decisionmakers visit the site to fully understand the proximity of the proposed market/eatery to our homes, and carefully consider the impact of our aforementioned concerns upon:

- Our peaceful enjoyment of our homes,
- Our health and well-being,
- Our security and safety, and
- Our property values.

For many residents, our homes represent a significant financial investment.

Summary

In summary, we request the following action steps:

- Eliminate noise pollution caused by equipment, deliveries, and other potential contributors, such as outdoor music and announcements;
- Prevent light pollution;
- Decline applicant's future request for outdoor dining;
- Change delivery hours from 6 a.m. to 10 p.m. to 7 a.m. to 9 p.m.;
- Change business hours from 10 a.m. to 10 p.m. to 10 a.m. to 9 p.m.;
- Contain and redirect food odors away from residences;
- Restrict access to our pond and footpaths by requiring applicant to construct a fence;
- Require applicant to provide animal-proof trash dumpsters and receptacles for food waste and post signs for littering;
- Assure dumpster is behind a locked gate and inaccessible to people;
- Establish, post, and enforce provisions for alcohol consumption;
- Assure sufficient parking is available to prevent vehicles from parking in our neighborhood.

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- Assure vehicles and pedestrians are safe during ingress and egress at the market;
- Identify the responsible party(ies) for enforcement of each of these areas of concern and provide contact details to residents (e.g., name, phone, email);
- Keep residents informed of the status of their concerns; and
- Inform residents of future changes to the SUP and allow residents sufficient time to present their concerns.

We greatly appreciate the time and effort invested by the Commission to fully evaluate the proposed application and its impact upon the adjoining residential neighborhoods.

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February 7, 2023

Community Development
c/o City of Keller
PO Box 770
Keller, TX 76244

Subject: Specific Use Permit SUP-22-0036
Letter of Opposition

To All City of Keller Decision Makers, including the Mayor and City Council,

I am Brenda L. Daily, resident of 1208 Fowler St., Keller Texas (Legal: Keller Town Center Addition Block B Lot 13R). My home is ≤ 75 feet from the applicant's property, well within a 200-foot radius of the proposed SUP-22-0036.

I am opposed to granting SUP-22-0036 because it expands use which existed when I purchased my property. The building was previously a dine-in restaurant. Expanding use to include a market/self-service eatery negatively impacts my property value because a market is out of character with the adjacent retail properties. It also sets a precedent that if the business fails, a replacement, such as a mini-mart could be approved.

I am concerned about proposed usage of the tiny triangle of "green space" located between the subject property and my home. During the Planning and Zoning Commission of the City of Keller's January 10th meeting, Ms. Smith related the City actively promotes greater and varied use of "green space" adjacent to our homes, including non-residents. She explained a market and eatery invites outdoor dining and congregating of "green space."

The space she references extends a mere 75 feet in length from my home to the applicant's property and terminates at an area about a yard wide, ***less than 6 feet from my bedroom window.***


Expanding use of this small "green space" attracts non-patrons of the market who can present a security risk to us. The Commission publicly stated there are no available alternatives for creating demarcation or a safety zone between the City's "green space," and the market and our homes. For this reason, I oppose any business that, by its design, increases greater access and expanded usage of this tiny "green space."

Our small enclave is safe because homes are secluded and inconspicuous to passers-by. We are a collective of single women, seniors, and families with young children who enjoy the safety and peace of Keller. Historically, this area, at the end of the trail, has been used by Keller residents and occasional visitors for fishing, walking, running, and playing by young, unaccompanied children who only occupy the space near the pond. This current situation should be preserved.

Since 2021, we have experienced trail safety issues, theft, and high-risk persons intruding into neighborhoods. Accordingly, I oppose any application for any restaurant, market or business on the subject property with the potential to negatively impact our safety. Keller is an excellent place to live for many reasons due to how our elected officials have controlled its growth and zoning to date. Clearly, highest and best use for the subject property for my neighborhood and for quality and character of life in Keller Town Center area is retail, office, and/or medical facilities which are in keeping with the adjacent retail properties. For example, the building and lot would be ideal if there was a need to expand the City of Keller offices or services beyond Town Hall since the environment would be almost identical to that of the present offices and would be within walking distance of the related City of Keller personnel.

Thank you for taking into consideration my opposition to SUP-22-0036.

Sincerely,



Brenda L. Daily

Attachment (one)

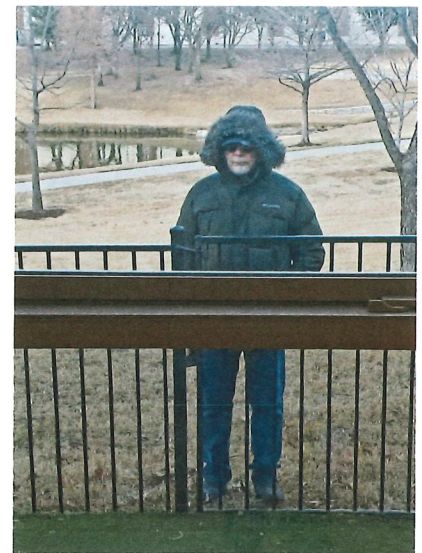
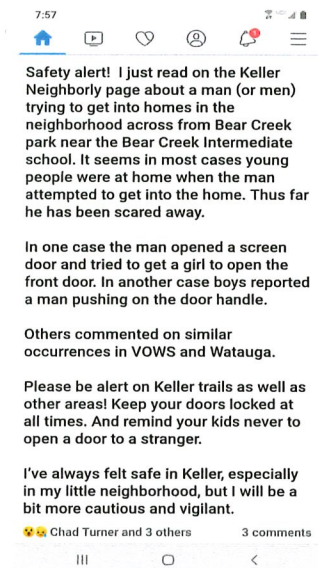
REC'D FEB 07 2023

A market, self-service eatery is not in keeping with adjacent retail properties.

During the January 10th Commission hearing, Ms. Smith stated the City promotes high usage of green space yet lacks the ability to provide any safety or security barrier between our homes, “green space” (6 feet away), and the market (≤ 75 feet away).

We are inconspicuous. Maintaining our security and safety should be the highest priority. This is best achieved by approving applicants with plans that are aligned with the adjacent retail properties.

Please give it some thought. A lot has changed since the restaurant was there. More security threats. More theft. More opportunists.



January 21, 2023 post:

Intruder near Middle School. Additional posts cite these men have handcuffs attached to their pants.

With plenty of other Keller “green space,” protect our small, unobtrusive, inconspicuous, space by leaving it undiscovered.

Exploiting the tiny “green space” patch risks unintended, direr circumstances from opportunists who are neither market patrons or residents.

“Green space” begins 6 feet from my bedroom window.

Secluded at the end of the trail, single women, seniors, and families with small children are vulnerable.

City Procedures & Requirements: My name, address, circumstances, and letter of opposition are entered into public records thereby compromising my security and safety.

This is not a suitable location for a market and eatery

- It is not in keeping with adjacent retail businesses
 - Based on deliveries/hours of operation, we have a mere 8 hours of serenity per day, 7 days a week. ***Would you want this outside your bedroom window?***
 - Lighting is more extensive & intrusive than retail businesses
- This is not an under-represented community segment
 - There are **at least 7** Indian markets within a 10-mile radius of the location. Examples:
 - Annapurani Foods Delivery
 - Amma Indian Grocery 4.6 miles
 - DFW Desi Bazaar 5.2 miles
 - Papawady Asian Market 5.9 miles
 - Swadeshi Plaza of Southlake 6.4 miles
 - Hamro Mart 7.2 mile
 - New Diamond Grocers 8.9 miles
 - Bombay Grocery & Kebab Corner 10 miles
 - Namaste Grocery 10 miles
 - There are **at least 19** Indian eateries within a 10-mile radius of the location. Examples:
 - Fusion Flavors Indian Cuisine 2.5 miles
 - Shri Foods 2.5 miles
 - NK Indian Foods 2.8 miles
 - Swad Indian & Nepalese Cuisine 3.8 miles
 - Nepali Chulo Indian Cuisine 4.6 miles
 - Spice 8 4.7 miles
 - Sana Indian Restaurant 5.1 miles
 - Herbs Indian Cuisine 5.5 miles
 - Namaste Grill and Bar 5.7 miles
 - Minerva Indian Cuisine 6.1 miles
 - Plus 9 more

January 17, 2023

Community Development
c/o City of Keller
P.O. Box 770
Keller, Texas 76244

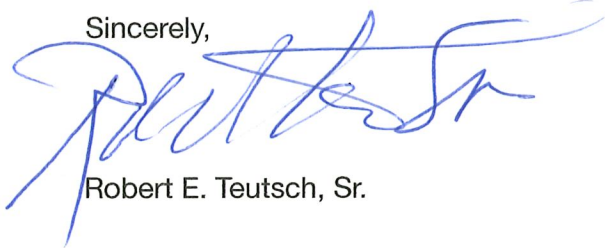
Subject: Specific Use Permit SUP-22-0036
Letter of Opposition

I am Robert E. Teutsch, Sr., resident of 1216 Fowler St., Keller, Texas 76248 (Legal: Keller Town Center Addition Block B Lot 15R). My property in part is within a 200-ft. radius of the property which is the subject of SUP-22-0036. I am opposed to the granting of SUP-22-0036 because the proposed use (grocery store/restaurant) expands the use which existed when I purchased my property in 2017. The property was then used as a dine-in restaurant. Expanding the use to include a grocery store negatively impacts my property value because a grocery store is out of character with the adjacent retail properties and residences. There are adequate and excellent grocery facilities which now and in 2017 were and are in place nearby but buffered from my single-family residential area by retail and multi-residential properties. Especially concerning would be the possible action taken if the proposed business were to do poorly or even fail. Would there be an attempt to further expand the allowable use of the property in ways that may be detrimental to the peaceful enjoyment of this wonderful neighborhood?

In point of fact, were I given the opportunity, I would oppose any application for any restaurant on the subject property. Keller is an excellent place to live for many reasons due to the manner in which our elected officials have controlled its growth and zoning to date. Clearly, the highest and best use for the subject property for my neighborhood and for the quality and character of life in the Keller Town Center area (the "Crown Jewel" of our city) would be for high-end retail, office and/or medical facilities. Actually, the building and lot would be ideal if there were a need to expand the City of Keller offices or services beyond Town Hall since the environment would be almost identical to that of the present offices and would be in walking distance of the related City of Keller personnel.

Thank you for taking into consideration my opposition to SUP-22-0036.

Sincerely,



Robert E. Teutsch, Sr.

REC'D FEB 07 2023

From: Shanna Webb
Sent: Monday, January 9, 2023 8:46 PM
To: mayorandcouncil@cityofkeller.com <mayorandcouncil@cityofkeller.com>
Subject: SUP-22-0036 (1110 Keller Parkway)

Dear Mayor, Chairperson and Members of the Planning and Zoning Commission,


I am Shanna Webb and live at 1204 Fowler St. Keller, Tx. 76248 in the District at Uptown neighborhood.

My home is directly adjacent to the proposed business requesting the SUP-22-0036 (1110 Keller Parkway) and is easily within 300 feet of my backyard. I am a single homeowner and am very concerned about security, business operation times and property values to name a few examples. The new owners were made aware and had contact with the KPD of a person living in his truck in the back parking lot of the property. This person stays a few days and up to weeks. Sometimes coming and going at all hours of the night. I feel unsafe going in my back yard especially at night. The owners are aware of this security and safety issue and that neighbors have voiced our concerns yet they continue to allow this person to stay. This makes me question their commitment to being good neighbors and keeping the area safe and secure. Along with these concerns please see the attachment for a more detailed list.

Our neighborhood is a hidden gem, a quiet and peaceful enclave next to the beautiful pond and walking paths. I want our homes to be safe and our quality of life respected. Thank you for the opportunity to share my thoughts with you.

Kind regards,

Shanna Webb
1204 Fowler St.
Keller, TX 76248
817-999-4934



Sarah Hensley

From: Kelley Swing [REDACTED] >
Sent: Tuesday, February 7, 2023 11:17 AM
To: Gregory Garlett; Sarah Hensley
Subject: Urgent: Feb 7th meeting

Please have my husband speak on my behalf with my following concern.

Dear City Council,

I have 22 employees, and my sustainable salon business is finally thriving after six years. I have signed another 5-year lease on my property. I will be hiring additional staff and planning for my business to grow. I have added another business next door to my salon in Suite 300 I share with my husband.

When the new tenant approached my salon regarding parking, my manager informed them on two occasions that we use **all** our parking spaces and cannot forfeit them. Unbeknownst to me, my landlord decided to sell them 5 of my parking spaces without consulting me. My concern of removing the parking that I currently use will negatively impact the growth of my business. My parking lot is occupied by clients and employees consistently throughout the day and every day of the week.

From my research, parking can make or break how a customer feels when visiting a business. It is likely to determine whether or not they return. In fact, 40% of customers say they avoid shops where parking is challenging. Also, negatively impact the guest experience when they visit the salon. If they struggle to find parking before entering my salon, their first impression and experience will be on negative tone.

My employees depend on their income for their livelihood, and I cannot cut back five employees to accommodate parking for my guests. I need to hire more employees due to the current demand for my business. On average, we see 1400 guests each month, and growing. We hired two new employees this month alone and are consistently interviewing. So I ask the city of Keller to consider protecting the current businesses already in progress before jeopardizing my business for the needs of a new company that may or may not thrive in Keller.

If time allows, please address this.

The smell is a concern with an Indian restaurant next door. We are an organic and sustainable salon, and the main perk of our salon is the smell. Our clients comment daily on how our salon has zero chemical smell. Having the restaurant smell will negatively impact my guest experience.

Thank you,

Kelley Swing
Head Case LLC | CEO



1200 Keller Pkwy Ste 400
Keller TX, 76248
Ph: 682-593-7425
www.HeadCaseHairStudio.com

John F. and Colleen I. Filak
205 Longview Ct
Keller, TX 76248

February 7, 2023

Mayor Armin Mizani and City Council
City of Keller
1100 Bear Creek Parkway
Keller, TX 76248

Dear Mayor Mizani and Members of the City Council,

We are writing to you regarding the Specific Use Permit SUP-22-0036, which is described as a Desi Adda grocery and self-service, take-out restaurant. We welcome the addition of Eastern Indian cuisine to Keller! However, not at this location in the Arthouse complex.

The proposed location has been suitable for dine-in restaurants, without any issue that we are aware of. However, a grocery is a quite different application. We visit that area weekly for running, supporting merchants on Town Hall Lane, and meeting with friends who live in the adjacent residential areas. While the small park and pond are public spaces, the secluded location has primarily supported the safe and peaceful use of Keller residents who run, walk, and fish there. *Please carefully consider the impact of a grocery and take-out establishment in this area.*

This proposed application invites extended use by non-residents of the small park between the grocery and the adjacent Arthouse homes and single-family homes. We are concerned about the safety of residents whose living spaces are only steps away from the park, as well as those of us who visit the area regularly. Many of those residents are older, single individuals who have been protected from extensive foot traffic by non-residents and the potential for criminal activity. How will their (and our) ongoing safety be preserved if non-residents increasingly visit the small park?

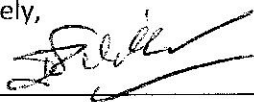
Additionally, groceries and take-out food services generate a good deal of trash. At the January meeting of the Planning and Zoning Commission, Commissioner Sagar welcomed use of the small park by non-residents. Will the City of Keller and its taxpayers bear the burden of monitoring and collecting waste generated in the park? Trash attracts rats, raccoons, and other wildlife, some of whom carry rabies. Are these visitors also welcome to the park?

Will visitors eating take-out food in the park start feeding "leftovers" to the ducks and turtles? You might laugh at the thought. In another municipality where we resided, people meant well, but feeding the wildlife resulted in seriously polluting the pond. Fish and ducks died. The pond had to be drained and remediated to address the pollution and allow wildlife to return.

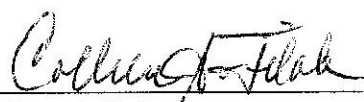
In closing, Eastern Indian cuisine is a wonderful addition to the City. But please consider another location. This application is rife with numerous issues that are especially unattractive for our beautiful and safe city. We respectfully request that you deny this application and work with the new owner to identify a use for this property that aligns well with the surrounding commercial and residential properties.

Thank you for your consideration.

Sincerely,



John F. Filak
205 Longview Court
Keller, TX



Colleen I. Filak
205 Longview Court
Keller, TX