

**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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