



## Legislation Details (With Text)

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<b>On agenda:</b>	9/19/2017	<b>Final action:</b>	9/19/2017
<b>Title:</b>	PUBLIC HEARING: Consider an ordinance approving a Specific Use Permit (SUP) for Andy's Frozen Custard, a single story 2,909 square-foot drive-thru restaurant, located on a 1.14-acre lot, on the north side of Keller Parkway (FM1709), approximately two hundred sixty feet (260') east of the Pate-Orr Road and Keller Parkway (FM1709) intersection, being Lot 3R-1R5, Block 8, Bluebonnet Trails Addition, at 951 Keller Parkway (FM1709), and zoned TC (Town Center). Keller Square, LLC, owner. Aaron King, Andy's Frozen Custard, applicant. (SUP-17-0015)		
<b>Attachments:</b>	1. 091917_Andys_FrozenCustard_SUP_Draft_Ordinance, 2. 091917_Andys_FrozenCustard_SUP_082817_Planning_&_Zoning_Meeting_Minutes, 3. 091917_Andys_FrozenCustard_SUP_ExhibitA_Narrative_Letter, 4. 091917_Andys_FrozenCustard_SUP_ExhibitA_Site_Layout_&_Building_Elevations, 5. 091917_Andys_FrozenCustard_SUP_StaffAttachment_City_Nextdoor_Poll, 6. 091917_Andys_FrozenCustard_SUP_StaffAttachment_Stonebridge/Castlemen_Nextdoor_Survey, 7. 091917_Andys_FrozenCustard_SUP_StaffAttachment_Support_Letter, 8. 091917_Andys_FrozenCustard_SUP_StaffAttachment_Traffic_Generation_&_TXDOT_Response, 9. 091917_Andys_FrozenCustard_SUP_Maps		

Date	Ver.	Action By	Action	Result
9/19/2017	1	City Council		
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**To:** Mark Hafner, City Manager

**From:** David Hawkins, Planning Manager

**Subject:**

**PUBLIC HEARING: Consider an ordinance approving a Specific Use Permit (SUP) for Andy's Frozen Custard, a single story 2,909 square-foot drive-thru restaurant, located on a 1.14-acre lot, on the north side of Keller Parkway (FM1709), approximately two hundred sixty feet (260') east of the Pate-Orr Road and Keller Parkway (FM1709) intersection, being Lot 3R-1R5, Block 8, Bluebonnet Trails Addition, at 951 Keller Parkway (FM1709), and zoned TC (Town Center). Keller Square, LLC, owner. Aaron King, Andy's Frozen Custard, applicant. (SUP-17-0015)**

**Action Requested:**

Conduct a public hearing and consider an ordinance approving a Specific Use Permit (SUP) for Andy's Frozen Custard, a single story 2,909 square-foot drive-thru restaurant.

**Zoning:**

TC (Town Center)

**Background:**

The subject property was originally platted as Lot 3, Block 8 of the Bluebonnet Trails Addition in 1984. This property was rezoned to TC (Town Center) as part of the citywide rezoning in 1992. It has since

remained undeveloped. In March 2012, the property was re-platted to Lot 3R-1 and again in June 2012 to the current lot designation of Lot 3R-1R5, Block 8. A SUP for an El Pollo Loco drive-thru restaurant was denied by City Council on January 19, 2016.

**Analysis:**

The purpose of this SUP is to address the proposed use of a drive-thru restaurant and for the proposed building to deviate from the minimum building square footage required by the Town Center zoning district.

SUP applications for previous projects in Town Center have commonly submitted both the SUP and site plan for concurrent review. The applicant has chosen to seek approval of the SUP first prior to any site plan preparation and submittal. The applicant will submit a site plan for review pending the approval of this SUP. Any variances with the building elevation, site layout, landscaping, parking, signs, or façade material will be addressed by the site plan. All site plans in Town Center are subject to design review by the Planning and Zoning Commission and City Council.

**Site Design:**

UDC Section 8.03 (P.2.b) states that uses with drive-thru lanes are permitted only by a Specific Use Permit.

**Condition Requested:**

The applicant is requesting the approval for a drive-thru restaurant. The SUP would only apply to Andy's Frozen Custard.

UDC Section 8.03 (P.4.b.2) states that the minimum building footprint in Town Center shall be six thousand (6,000) square feet. Footprints less than six thousand (6,000) square feet may be approved by SUP.

**Variance Requested:**

The applicant is requesting a variance to allow the building square footage to be less than six thousand (6,000) square feet.

Any other deviations from the Town Center requirements will be addressed during the site plan review.

**Elevations:**

The building is a single-story and the height is approximately twelve feet (12'). Restaurants are permitted to be single-story in Town Center.

**Tree Preservation:**

There are no trees located on this property. A tree survey will not be required.

**Drainage & Utilities:**

A site plan application and more detailed civil engineering plans will be required before a building permit can be released.

**Trip Generation:**

The applicant has submitted a Trip Generation form. According to the form, the proposed building will generate a total of two hundred thirteen (213) trips per weekday and two hundred eight (208) trips

per day on weekends, which does not exceed the two thousand (2,000) trips per day necessary to perform a Traffic Impact Analysis. The applicant has also contacted the Texas Department of Transportation (email communication has been included in the "Staff Attachments") and will not be required to install a deceleration lane on the driveway entrance from Keller Parkway (FM1709).

### **Existing Roadway Access:**

All access to this site is through shared access easements that connect to:

Keller Parkway a six-lane divided arterial to the south (through the access drive on Keller Parkway shared by Raising Canes).

Rufe Snow Drive, a four-lane undivided collector to the east (through the access drive at the rear of the property).

Pate Orr Road, a four-lane undivided collector to the west (through the access drive at the rear of the property).

### **Surrounding Zoning & Land Uses:**

North: Undeveloped lot with an existing detention infrastructure, zoned TC

South: Kroger's Shopping Center, zoned TC

East: American National Bank, zoned TC

West: Raising Canes, zoned TC

### **Requested Variances:**

The applicant is requesting one (1) condition and one (1) variance:

1. Approve a condition allowing Andy's Frozen Custard to operate a drive-thru restaurant.
2. Approve a variance to allow the building to be less than six thousand (6,000) square feet.

### **Summary:**

The applicant has met all requirements of the UDC for this specific use permit with the exception of the variance. A Site Plan will be required to be approved by the City before any construction can begin on this development. All site plans for development in the Town Center zoning district will go before the Planning and Zoning Commission and City Council.

Section 8.04 (B.2.a) of the UDC states that when considering a SUP request, the Planning and Zoning Commission and City Council shall consider the following factors:

- 1) The use is harmonious and compatible with surrounding existing uses or proposed uses;

***The adjacent uses include Raising Canes, a drive-thru restaurant and a multitenant retail building. The proposed use does fit in with the other adjacent uses. There are two undeveloped lots to the north of the subject property, also zoned TC (Town Center). The proposed use does not fit with the pedestrian-oriented uses desired for this area by the Town Center zoning district.***

***The pad site is already laid out with the pavement and parking areas already constructed. The total size of the building pad site is approximately 6,967 square feet and is not large***

**enough to contain a 6,000 square foot building with sidewalks and the required foundation landscaping/planters without a variance. Staff estimates that the available area for the building would be reduced to between 4,800 to 5,400 square feet if the building had four foot (4') wide sidewalks and five feet (5') wide foundation planting on the side and front of the building.**

- 2) The activities requested by the applicant are normally associated with the permitted uses in the base district;

**Any restaurant with a drive-thru may be permitted with the approval of a Specific Use Permit.**

**The approval of the SUP would only apply to Andy's Frozen Custard. The UDC requirements for a SUP state that once the building is constructed and in use, the SUP may be transferable due to ownership change. Approval of this SUP application without a site plan component would not grant a different user (a different type of restaurant or fast food user) to utilize the entitlement without additional City Council approval. If the building is vacant and not in use for greater than six (6) months, the SUP will automatically expire.**

- 3) The nature of the use is reasonable and appropriate in the immediate area;

**The nature of the use is in conflict with the intent of the Town Center general purpose to provide "tightly grouped buildings arranged around a connected street and sidewalk network that serves vehicle, pedestrian, and bicycle traffic." However, the site has been established and the pad space is sufficient for the proposed building.**

- 4) Any negative impact on the surrounding area has been mitigated; and

**Staff does not anticipate any negative impact to the surrounding area. Site Plan review will still be required by the Planning and Zoning Commission and City Council.**

- 5) That any additional conditions specified ensure that the intent of the district purposes is being upheld.

**Staff does not anticipate any other factors that will substantially affect the health, safety, morals or general welfare.**

#### **Citizen Input:**

On Friday, August 18, 2017, the City mailed out nine (9) letters of Notifications for this Public Hearing to all property owners within three hundred feet (300') of the subject site. A public hearing notice sign was posted on the site. A newspaper notice was advertised in the Fort Worth Star-Telegram fifteen (15) days prior to this meeting.

Staff received a response in support of the SUP request from Kroger's (to the south, across Keller Parkway). Staff also received a response detailing the results of a Next Door survey from resident. Both items have been included under "Staff Attachments."

The City conducted an informal poll through Next Door between August 29, 2017 and September 13, 2017. A total of 486 votes were cast with sixty-five percent (65%) supporting or strongly supporting

the proposal and twenty-one percent (21%) opposed or strongly opposed. A copy of the question, results, and a breakdown of results by neighborhood has been included under “Staff Attachments.”

As of September 11, 2017, staff has not received any letters in opposition. This item will **not** require a supermajority vote to approve.

**Professional Opinion:**

Staff feels that the proposed drive-thru is not reflective of the general purpose of the Town Center District as outlined by the UDC and does not support this condition. The Town Center District specifically discourages uses with drive-thru lanes.

Staff is in **support** of the variance request to allow the building to be less than six thousand (6,000) square feet.

Staff is forwarding this Specific Use Permit application for consideration by the Planning and Zoning Commission with the following condition and variance:

1. The condition for Andy’s Frozen Custard to operate a drive-thru restaurant to be considered.
2. The variance for the building to be less than six thousand (6,000) square feet to be considered.

**Board Review:**

The Planning and Zoning Commission considered this SUP application on August 28, 2017 and has provided a recommendation to approve with a unanimous vote (7-0) with the following conditions:

1. The condition for Andy’s Frozen Custard to operate a drive-thru restaurant shall be allowed.
2. The variance for the building to be less than six thousand (6,000) square feet shall be allowed.

**City Council Action:**

The City Council has the following options when considering a Specific Use Permit application:

- Approve as submitted (with proposed condition and variance)
- Approve with modifications or conditions
- Tabling the agenda item to a specific date with clarification of intent and purpose
- Deny