



# City of Keller

Keller Town Hall  
1100 Bear Creek Parkway  
Keller, TX 76248  
817-743-4000  
www.cityofkeller.com

## Legislation Text

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**File #:** 18-108, **Version:** 1

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**To:** Mark Hafner, City Manager

**From:** Susan Kenney, Director of Community Development

**Subject:**

PUBLIC HEARING: Consider an ordinance approving a Specific Use Permit (SUP) for Jason's Deli, a single story 9,000 square-foot restaurant with drive-thru, located on a 1.58-acre lot, on the south side of Keller Parkway (FM1709), approximately four hundred seventy feet (470') west of the Keller Smithfield South and Keller Parkway (FM1709) intersection, being Lot 3, Block E, Keller Town Center Addition, at 1400 Keller Parkway (FM1709), and zoned TC (Town Center). Pinpoint Bear Creek Land Holdings, LLC, owner. Bomac Partners, Ltd or assigns (Trinity Partners), applicant. (SUP-18-0004)

**Action Requested:**

Conduct a public hearing and consider an ordinance approving a Specific Use Permit (SUP) for Jason's Deli, a single-story 9,000 square-foot drive-thru restaurant.

**Zoning:**

TC (Town Center)

**Future Land Use Plan:**

MU (Mixed-Use)

**Background:**

The subject property was originally a legal volume of record filed in Tarrant County on January 13, 1938, volume 1358, page 336, Tarrant County Deed Records. The land was zoned Town Center (TC) in 1992. In February 26, 1999, 1.8-acres of land were filed in Tarrant County under Dorothy Doyle, legal owner of Lot 3, Block E, Deed 199048167. In 2013, an official plat was filed and the land was purchased by Pin Point Bear Creek Land Holdings, LLC on July 22, 2013. The land is currently undeveloped.

**Analysis:**

The purpose of this SUP is to address the proposed use of a drive-thru restaurant in 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.

**Elevations:**

The building is single-story and the height is approximately twenty-four feet (24'). Restaurants are permitted to be single-story in Town Center.

**Tree Preservation:**

There is a cluster of trees located toward the center of the property. A tree survey will be required prior to site plan review.

**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 an estimated total of one hundred seventy-eight (178) trips per weekday. Estimates for the weekend trips had not been generated. Proposed estimates would not exceed the two thousand (2,000) trips per day necessary to perform a Traffic Impact Analysis. It is unknown if the applicant has reached out to the Texas Department of Transportation. It is highly unlikely the applicant will 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 north (through the access drive on Keller Parkway shared by Bank of America).

Keller Smithfield South, a four-lane divided collector to the east (through the access drive at the rear shared by Walgreens and Bank of America).

**Surrounding Zoning & Land Uses:**

North: Multi-tenant retail building, zoned TC

South: Undeveloped land, zoned TC

East: Bank of America, zoned TC

West: Multi-Family Housing (Apartments), zoned TC

**Summary:**

The applicant has met all requirements of the UDC for this specific use permit. 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;
- 2) The activities requested by the applicant are normally associated with the permitted uses in the base district;
- 3) The nature of the use is reasonable and appropriate in the immediate area;
- 4) Any negative impact on the surrounding area has been mitigated; and
- 5) That any additional conditions specified ensure that the intent of the district purposes is being upheld.

**Citizen Input:**

On Thursday, March 29, 2018, the City mailed out 8 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. To date, no letters of opposition have been received.

**Board Review:** The Planning and Zoning Commission considered this item at the April 9, 2018 meeting and the voted to approve unanimously (7-0).

**Professional Opinion:**

Staff understands that the proposed drive-thru is not reflective of the general purpose of the Town Center District as outlined by the UDC, and thus **does not support** this condition. While Town Center District discourages uses with drive-thru lanes, it is written in the UDC it can be approved with a Specific Use Permit (SUP); examples of previously approved (SUP's) in the Town Center Zoning District with drive-thru lanes are, Andy's Frozen Custard and Braums.

The approval of the SUP would only apply to Jason's Deli. 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.

Adjacent uses in the Town Center Zoning District include Bank of America, a financial institution operating with motor-banking capabilities; a multi-tenant retail building, of which two tenants are restaurants without drive-thru windows, multi-family housing units, and a vacant lot to the south zoned TC (Town Center). Recently approved restaurants, Andy's and Braums, will soon be constructed in Town Center (TC) and will operate with drive-thru lanes. The proposed use of a drive-thru lane at a restaurant does not match as a fit with the desired pedestrian oriented uses in the Town Center Zoning District.

Based on the proposed location of Jason's Deli, the nature of the use is reasonable and appropriate for Town Center (TC) Zoning. In the immediate area, two (2) locations to the west are easily accessible to the property from foot. The multi-family housing property and other properties to the west are accessible by bicycle, foot, or car. The Town Center (TC) Zoning District calls for a sidewalk network which can serve pedestrian and bicycle transportation. Town Center (TC) also calls for open



space, street trees and other amenities, all reflective in the applicant's proposed concept plan, which meets these (TC) standards.

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

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

**Alternatives:**

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

- Approve as submitted
- Approve with modified or additional condition(s)
- Tabling the agenda item to a specific date with clarification of intent and purpose
- Deny