



Legislation Text

File #: 18-201, **Version:** 1

To: Mark R. Hafner, City Manager

From: Susan Kenney, Director of Community Development

Subject:

Consider a resolution approving a Site Plan for a Jason's Deli, a 4,939 square-foot restaurant with drive-thru, to anchor a single story 9,000 square-foot strip retail building, 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).

Action Requested:

Consider a resolution regarding a Site Plan for a Jason's Deli, a 4,939 square-foot restaurant with drive-thru, to anchor a single story 9,000 square-foot strip retail building.

Zoning:

TC (Town Center)

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 TC (Town Center) zoning district requires all Site Plans to be submitted for a detailed review and to receive approval from City Council after a recommendation from the Planning and Zoning Commission. The purpose of this Site Plan review is to ensure that development within the district is in conformance with design guidelines for Town Center and that:

- a. The proposed development is architecturally compatible with other development in the surrounding areas.
- b. The proposed development is within the character of the Town Center concept as a community focal point with quality development having a pedestrian orientation, suitable amenities, and an overall design theme.
- c. Restaurants in Town Center may be one story and incorporate their own special design features in keeping with the design guidelines and spirit of Town Center.

Site Layout:

The applicant is proposing a 4,939 square-foot restaurant with drive-thru to anchor a 9,000 square-foot single story retail building. The applicant is requesting seven (7) variances regarding the design of the roof, the percentages of the exterior masonry materials, parking space depth, landscape buffer on the west property line, landscape foundation planting on the west side of the building, and special exceptions to the sign code. Access to the site from Keller Parkway (FM1709) will be provided through existing and proposed access easements.

Architecture:

Section 8.03 P (4.d.1.) of the UDC states that the wall surface for all buildings other than glass shall be one-hundred percent (100%) masonry. Seventy-five percent (75%) of the wall surface shall be brick, stone or cast stone. The remaining twenty-five percent (25%) may be stucco, fibrous cement, split-face block, or other masonry material. If stucco is utilized on the wall surface it must be a minimum of ten feet (10') above grade level.

Variance Requested: The applicant is proposing four exterior walls which do not meet the seventy-five percent (75%) brick, stone or cast stone requirement. The proposed elevations overall contain approximately forty-nine percent (49%) of brick masonry and approximately thirty-nine percent (39%) stucco and faux wood (fibrous cement). The remaining twelve percent (12%) is Cor-Ten steel alloy paneling. COR-TEN is a trademarked name owned by U.S. Steel. Weathering steel, best-known under the trademark COR-TEN® steel, is a group of steel alloys which were developed to obviate the need for painting, and form a stable rust-like appearance if exposed to the weather for several years.

The material being used as the faux wood product is a fibrous cement product called Nichiha. It is a rain screen system which has the appearance of wood and has various textures adding to the effect. The specific name of this type of Nichiha product is Vintage Wood, called Ash.

The south elevation is forty-six percent (46%) brick, and the west elevation is fifty-seven percent (57%) brick. The north elevation is at (30%) brick, and the east elevation is sixty-eight percent (68%) brick.

The architecture of the structure does show the column effect every twenty-five feet (25') with varying setbacks and articulations.

Roofing:

The Town Center zoning district (Section 8.03 P.4.c.8) states that flat roofs are only allowed based on building design as approved during the Site Plan review.

Variance Requested: The applicant is requesting a variance to allow a flat roof with parapet wall extensions above the actual roof line. The actual roof height will be fourteen foot four-inches (14'4"). The height of the roof along with parapet extensions range between twenty-one feet (21') and twenty-four feet (24'). The applicant has provided building elevations which are provided under Exhibit "A".

Building Signage:

The applicant will meet the attached building sign design requirements of the Town Center zoning

district with respect to size and height at time of sign permit application.

The proposed sign on the north elevation, as provided under exhibit "A", will be approximately fifty five (55) square feet. The sign will be internally illuminated with white LED lights on a channel box aluminum frame. Per UDC Section 8.09 D6 (Table 2) allows for this elevation to have a 200 square foot sign. This building would be permitted to have only one (1) attached building sign and additional movement control signs.

Per UDC Section 8.09 (D.6) Table 2-Attached Signs to allow only one sign per building elevation visible from a street.

Special Exception Requested: The applicant is requesting a thirty-one (31) square foot illuminated sign to be located on the east building elevation.

Per UDC Section 8.09 (D.6) Table 3 Attached Signs Additional Types to allow a movement control sign indicating the drive-thru is located on the east elevation would be positioned below the additional sign. The special exception is also included in this "drive-thru" sign as the UDC states movement control signs can only be (6) square foot with lettering to be four inches (4") in height.

Special Exception Requested: The applicant is requesting an illuminated movement control sign to be 7.68 square feet and lettering to be fourteen inches (14") in height.

Lighting:

The photometric plan provides locations where the light poles will be added to the site. North and east properties surrounding the site are non-residential uses. The property to the south is vacant land, and the west property is Multi-Family (MF) use.

Section 8.03 (P.4.g.13.) of the UDC states that parking lot lighting fixtures shall be provided in accordance with the approved specifications for Town Center. Reference is made to a light fixture, twenty three feet (23') in height. The applicant is meeting the light pole height requirement with twenty three foot (23') poles and up to (30") light pedestals.

Section 8.03 (P.4.f.1) of the UDC state that a pedestrian scaled light fixture shall be provided every one hundred twenty feet (120') along Keller Parkway. The applicant is providing a light pole at the approximate required spacing measured from existing installed light fixtures to the east of this property.

Lighting shall meet standards of the UDC, Article 8.16 (Lighting and Glare Standards) and will not spill into private property or interfere with the public thoroughfare.

Landscaping:

The Town Center zoning district has specific landscaping and buffer requirements along Keller Parkway. Section 8.03 (P.4.e) of the UDC requires a forty-foot (40') landscape buffer along the south side of Keller Parkway. Section 8.03 (P. 4.f) of the UDC states that a double row of four inch (4") caliper Red Oak trees spaced thirty feet (30') on center in a straight line is required along Keller Parkway within the landscape buffer.

An underground gas utility line is present within the landscape buffer on the north side of the sidewalk. The applicant has been informed by the gas company (Atmos Energy) that no trees are to

be planted within the gas easement. City of Keller officials have also spoken with representatives of the gas company, and were given the same response. Article 8.19 (3.M.2) of the UDC states any required replacement trees or street trees shall not be planted within five feet (5') of underground public utility lines, including water lines, sewer lines, transmission lines or other utilities. Due to this hardship and situation, the applicant will not be able to plant the row of Red Oak trees on the north side of the sidewalk along Keller Parkway in the forty-foot (40') landscape buffer, but will be able to plant a single row of Red Oak trees on the south side of the sidewalk along Keller Parkway. In addition, engineering has informed the applicant no trees can be planted along the parking island strip on the far south side of the site due to underground lines. Fifty five (55) Dwarf Yaupon Holly will be planted in place of the trees and was agreed upon by city engineering and planning staff for this parking island strip.

Variance Requested: The applicant is proposing a foundation planting of three feet (3') in width to run along the west side of the structure for approximately forty-seven feet (47'). The remaining thirty-six feet (36') will provide the five foot landscape foundation as required. On the south side of the building, the applicant is proposing no foundation planting and in lieu of this, will add extra landscaping on the north side foundation. The applicant is also requesting a ten foot (10') landscape buffer on the west side of the property, which is adjacent to a multi-family development, in lieu of the required thirty foot (30') landscape buffer.

As per UDC Section 8.03 (P.4.G.8), a minimum five (5) foot foundation planting is required on the front and sides of all buildings and parking structures. In addition, UDC Section 8.08 (F.1.c) states a minimum thirty foot (30') landscape buffer is required when adjacent to all properties with residential uses or zoning. A variance is being requested to the landscaping.

Tree Preservation:

There are four (4) Hackberry trees located on the site. Hackberry trees are listed as non-protected trees according to the Unified Development Code and therefore can be removed with a tree removal permit. The (4) trees would be removed prior to construction and a tree removal permit completed during the building permit phase.

Sidewalks and Trails:

The applicant will install a five foot (5') wide sidewalk along the Keller Parkway frontage, connecting with the existing sidewalk to the east. Depending on the decision rendered by Atmos Energy, the sidewalk might have to veer south and make a slight curve. Atmos Energy has expressed their desire to keep all construction twenty five feet (25') away from the gas easement.

Fire Protection:

Fire lanes and fire hydrants will be installed and will meet the fire protection requirements of the Unified Development Code.

Parking:

Per UDC Section 8.07 (G.53) requires one (1) parking space for every 100 square foot of gross floor area for a drive-thru restaurant.

The business will be occupying 4,939 square feet of the 9,000 square foot building. The restaurant (drive-thru) type is required to have fifty (50) parking spaces. The combined total of parking spaces

required, not including handicap parking is seventy-eight (78) spaces. The applicant is providing eighty-five (85) parking spaces plus (4) ADA parking spaces, and meets UDC requirements for the allotted parking. Total parking allows for a restaurant to occupy the remaining building space.

Per UDC Section 8.18 (Figure 14) requires all parking spaces to be nine foot (9') in width by twenty feet (20') in length.

Variance Requested: The applicant is requesting a variance on the length to be eighteen feet (18') in lieu of the required twenty feet (20').

Existing Roadway Access:

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).

Additional access will be provided by a new driveway on Keller Parkway which will be constructed northwest of the building on the west side.

Drainage & Utilities:

Preliminary drainage, grading, water and wastewater plans were submitted with the Site Plan request. An eight inch (8") water line will be realigned on the east side of the business. Any additional modifications to these plans may be made with full civil plan review. Additional detailed drainage and utility plans will be submitted for review prior to building permit application.

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

Variances Requested:

The applicant is proposing the following standard that deviates from the Town Center development standards of the UDC for this Site Plan:

1. Allow a flat roof design in lieu of the pitched roof, as per UDC Section 8.04 (P.4.c.8)
2. Allow the building exterior to be less than 75% brick, stone, or cast stone. UDC Section 8.03 P (4.d.1).
3. Allow a three foot (3') foundation planting area on part of the west elevation. UDC, Section 8.03 P (4.G.8).
4. Allow a ten foot (10') landscape buffer on the west property line in lieu of a thirty foot (30') landscape buffer. UDC Section 8.08 (F.1.c).
5. Allow the parking spaces to be eighteen feet (18') instead of (20') in depth. UDC 8.18 Figure 14.
6. Allow a special exception to the sign code requesting a thirty-one (31) square foot illuminated sign to be located on the east building elevation. UDC Section 8.09.

7. Allow a special exception to the sign code requesting an illuminated movement control sign to be 7.68 square feet and lettering to be fourteen inches (14") in height.

Summary:

Section 2.07(A.2) of the UDC, lists criteria for approval of a variance. Staff's comments are added in bold italics.

- a. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Code would deprive the applicant of the reasonable use of his land.
- b. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other properties in the area.
- c. That the granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Code.
- d. That the granting of the variance will not constitute a violation of any other valid ordinance of the City of Keller.
- e. That strict compliance with the regulations, and/or that the purpose of the regulations will be served to a greater extent by the alternative proposal.

Citizen Input:

A Site Plan application, even with variances, does not require a public hearing, so no public hearing notifications were sent out to the surrounding property owners for this request. There has been no response from the public to this application. The public will have an opportunity to speak on this agenda item at the "Persons To Be Heard".

Professional Opinion:

Staff can see the unique quality and artistic façade design which has gone into the preparation for this site plan. The building architecture does reflect a distinct look and identity. There is open space, street lighting, sidewalk landscaping and other amenities which create a human scale environment which is the desired effect in the Town Center (TC) district per the UDC. UDC 8.03 (P.4.b.3.) states, restaurants in the Town Center may be one story and incorporate their own special design features in keeping with the design guidelines and spirit of Town Center.

Staff **does support** the site plan for the 9,000 square foot retail building with Jason's Deli utilizing 4,939 square foot of space for the anchor of the building. The nature of the use is reasonable and appropriate for Town Center (TC) zoning. Staff does not anticipate any negative impact to the surrounding area, nor does staff anticipate any other factors which will substantially affect the health, safety, morals and general welfare.

Alternatives:

City Council has the following options when considering a Site Plan with variances:

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

Board Opinion:

The Planning and Zoning Commission took action on this agenda item and recommended approval by a vote of (5-2) on July 9, 2018 for variances:

- (1). Allow a flat roof in lieu of a pitched roof.
- (2). Allow a three foot (3') foundation landscape for a portion of the west side of the building.
- (3). Allow a ten foot (10') landscape buffer on the west side of the property in lieu of a thirty foot (30') landscape.

The Commission was not in support for the following:

- (1). Allow the building exterior to be less than 75% brick and/or stone.
- (2). Allow parking spaces to be eighteen feet (18') in lieu of twenty feet (20').
- (3). The Commission was not in support of the special exception to allow for additional signage on the east side of the building. Applicant did not have the size specifications at the time.