



**City of Keller**  
**Planning & Zoning Commission**  
**Meeting Minutes**

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

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**Tuesday, November 9, 2021**

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PRE-MEETING BRIEFING 6:30P.M.

**A. CALL TO ORDER – Chairperson Gary Ponder**

Chairperson Gary Ponder called the Pre-Meeting Briefing to order at 6:30P.M.

The following Commissioners were present:

Gary Ponder, Chairperson

Ralph Osgood, Vice Chairperson

Paul Alvarado

Bob Apke

Leslie Sagar

Thomas Thompson

James Dawson

Logan McWhorter- Alternate

The following Commissioners were absent:

Phillip Maxwell

Staff present included: Katasha Smithers, Planner II; Julie Smith, Community Development Director; Sean Vreeland, Director of Information Technology; Chad Bartee, City Engineer; and Amy Botcher, Planning Technician

**B. ADMINISTRATIVE COMMENTS**

Planner Smithers stated there were four items presented at the November 2, 2021 City Council meeting. A SUP for 7201 Shady Grove was approved unanimously. The SUP for 901 Barbara Lane was approved with the conditions of an 18-month SUP and three months for the demo of the existing home. The Site Plan for Chick-Fil-A was approved unanimously. The UDC Amendment for fences kept the white vinyl fencing in the SF-36 zoning districts but relaxed where they could go.

### **C.DISCUSS AND REVIEW AGENDA ITEMS**

D1. Minutes for October 26, 2021

Commissioner Osgood stated there was a word misspelled on page one.

No additional questions or comments.

D2. Public Hearing for an SUP for a drive-thru expansion at 1002 Keller Parkway.

Planner Smithers gave a brief description.

Commissioner Osgood asked what would happen if the SUP was denied.

CDD Smith responded if it were denied, they would not be able to use their drive-thru. But they would be able to continue to operate under the legal non-conforming status.

D3. Public Hearing for an SUP at 800 South Main Street, Suite 224.

Planner Smithers gave a brief description.

No questions or comments.

D4. Consider four variances to the UDC for 1840 Highland Drive East.

Planner Smithers gave a brief description.

Commissioner Thompson stated the first three variances were previously approved for a different applicant. He asked how the addition of the fourth variance would affect previous applications.

CDD Smith stated it would not affect previous applications.

Commissioner Thompson stated the allowance of the variances would create a path forward for the remaining lots. He shared his concern over allowing a 25-foot front setback for the one lot.

CDD Smith responded the previously discussed 21 lots owned by the first applicant would have 35-foot front setbacks. She also noted the remaining lots would also have a 35-foot front setback because they are zoned SF-36.

Commissioner Alvarado was concerned that the zoning was SF-36 and the lots were so small, making the requests reasonable.

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Commissioner McWhorter stated looking at meeting all existing setbacks, a 2,000 square-foot house could still be built.

#### **D. ADJOURN**

Chairperson Ponder adjourned the Pre-Meeting at 6:56P.M.

### **REGULAR MEETING 7:00 P.M.**

#### **A. CALL TO ORDER –Chairperson Gary Ponder**

Chairperson Gary Ponder called the meeting to order at 7:03P.M.

#### **B. PLEDGE OF ALLEGIANCE**

1. Commissioner Osgood led the Pledge to the United States Flag.
2. Commissioner Osgood led the Pledge to the Texas Flag.

#### **C. PERSONS TO BE HEARD**

Jeff Avery, 1306 Worthington Street, stated he was the owner of 19 lots in the Highland Terrace Mobile Home Community and was in support of the four variances being requested.

Mike Garabedian, applicant, stated there were 98 lots and only three that would not be allowed to have the 25-foot setback. Therefore, a congruent streetscape would ne be an issue. He also stated the UDC offered relief if a house had a “looming effect” over a neighbor. He noted the ROW provided 60-feet instead of the required 50-foot.

There were no additional persons to speak.

#### **D. NEW BUSINESS**

1. [D \(1\) Consider the Minutes for the October 26, 2021, Planning and Zoning Commission Meeting.](#)

There were no comments or questions.

**Commissioner Apke made a motion to approve Item D (1), seconded by Commissioner Alvarado. Commissioner Thompson abstained. The motion carried 7-0.**

2. [D \(2\) PUBLIC HEARING: Consider a Specific Use Permit \(SUP\) for the expansion of drive-thru for Chick-Fil-A, an existing 4,779 square-foot restaurant on an approximately 1.46-acre tract of land, located on the south side of Keller Parkway \(F.M. 1709\), situated at the intersection of Rufe Snow Drive and Keller Parkway, being a portion of Lot 1R, Block A, Keller Town Center, at 1002 Keller Parkway, and zoned Town Center \(TC\). Regency Centers, LP, Owner. Interplan, LLC, Applicant/Developer. \(SUP-21-0036\)](#)

Planner Smithers stated Chick-Fil-A was constructed in 2014, and became a legal non-conforming use when the City's Code was amended in 2015 to require restaurants with drive-thru lanes to obtain an SUP. During the recent modifications to the pick-up lanes, staff discussed with Chick-Fil-A the process to make the use "legal conforming" by obtaining a Specific Use Permit (SUP) for their site. Chick-Fil-A submitted their application for a SUP as a result of those conversations.

Chairperson Ponder asked if the Applicant had anything to add.

The Applicant did not.

Chairperson Ponder opened Public Hearing.

There were no persons to speak.

**Commissioner Osgood made a motion to close the Public Hearing for Item E (2), seconded by Commissioner Alvarado. The motion carried unanimously.**

There were no questions or comments.

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**Commissioner Osgood made a motion to approve Item D (2), seconded by Commissioner Alvarado. The motion carried unanimously.**

3. [D \(3\) PUBLIC HEARING: Consider a Specific Use Permit \(SUP\) to allow the use of spa services, for Nail Bar One, in an 2,500 square-foot lease space, within a 21,895 square-foot multi-tenant building, on 2.93-acres, approximately 1,000-feet northwest from South Main Street and Wall-Price Keller Road intersection, and situated on the west side of South Main Street, located at 800 South Main Street Suite 224, legally described as Lot 3, Block A, Bear Creek Plaza Addition and zoned Retail \(R\). BC III Shopping Center, LLC, Owner. Nail Bar One, Applicant. \(SUP-21-0035\)](#)

Planner Smithers stated the property located at 800 South Main Street, Suite 224 has been used as a spa (nail salon) since 2014 and became a legal non-conforming use when the City's Code was amended in 2015 to require Spa uses to obtain a Specific Use Permit (SUP). The new owner of the salon applied for a Certificate of Occupancy (CO) on September 30, 2021 before realizing a SUP was required. The new owner then submitted the SUP application October 15, 2021.

She said the hours of operation were Monday through Friday: 9:30 am to 7:00 pm; Saturday: 9:00 am to 7:00 pm; and Sunday: 11:00 am to 5:00 pm. She added the proposed services provided would be nails, waxing, eyelash extension and facials.

Chairperson Ponder asked if the Applicant had anything to add.

The Applicant did not.

Chairperson Ponder opened Public Hearing.

There were no persons to speak.

**Commissioner Thompson made a motion to close the Public Hearing for Item E (3), seconded by Commissioner Alvarado. The motion carried unanimously.**

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There were no questions or comments.

**Commissioner Thompson made a motion to approve Item D (3), seconded by Commissioner Sagar. The motion carried unanimously.**

4. [D \(4\) Consider four variances to the Unified Development Code, Article 8- Zoning Districts, Development Standards, Tree preservation, Section 8.03 Zoning districts, regarding one lot in the Highland Terrace Mobile Home Park, to decrease the Minimum Dwelling Size to 2000 square-feet in lieu of the 2400 square-foot requirement, to increase the maximum lot coverage to 35 percent in lieu of the 30 percent requirement, to increase the maximum lot coverage to 55 percent in lieu of the 50 percent requirement, and to modify the front setback from 35 feet to 25 feet, legally described as Lot 27 of Highland Terrace Mobile Home ark, addressed as 1840 Highland Drive East and zoned Single-Family 36,000 square-foot lots or greater \(SF-36\). Mike Garabedian, GPLM, LLC, Owner/Applicant. \(UDC-21-0009\)](#)

Planner Smithers stated Highland Terrace Mobile Home Park was originally platted in 1970. This portion of the City was annexed into Keller in the late 1980s and zoned Single-Family 36,000 square-foot lots (SF-36). On June 1, 2021, the City Council approved three variances for 21 lots within Highland Terrace Mobile Home Park as follows: Decrease the minimum dwelling size from 2,400 square-feet to 2,000 square-feet; Increase the main building lot coverage from 30% to 35%; and Increase the maximum lot coverage from 50% to 55%.

She said in addition to the three variances Council granted previously to another developer for 21 lots, the Applicant was requesting a fourth variance for his property, addressed as 1840 Highland Drive East, to modify the front setback to 25 feet (rather than the required 35 feet) in order to build smaller, one-story structures.

Planner Smithers stated the four variances requested were: Decrease the Minimum Dwelling Size to 2000 square-feet (vs. 2400 square-feet); Increase the main building lot coverage to 35 percent (vs. 30%); Increase the maximum lot coverage to 55 percent (vs. 50%); and Increase the maximum lot coverage to 55 percent (vs. 50%).

Commissioner Apke asked the Applicant why a smaller house could not be built to satisfy the front setback request.

The Applicant responded the purpose was to give a larger back yard, and provide an opportunity for a pool to the residents. The request would serve as a template for other lots in the neighborhood.

Commissioner Apke asked if there were any special circumstances for this property. He also asked if the Applicant was planning to build a single or two-story home.

The Applicant stated the 10-foot utility easement and mature trees were part of the challenges. He added this would be a garden style community with a one-story home, most likely.

Commissioner Thompson asked if changing the front-yard setback to 25-feet would make the backyard 10-foot larger. He also asked if the rear setback restrictions would change if the front setback was changed.

Planner Smithers responded there would be a 15-foot rear setback either way. She noted a pool could go into a setback but could not go into an easement.

Commissioner Thompson asked Staff to confirm the change to a 25-foot front yard setback would not guarantee the size of the backyard.

Planner Smithers confirmed.

Commissioner Alvarado stated that even though the smaller size of the lots was known when they were purchased, he thought it would be reasonable to ask for variances. He asked if the 25-foot setback variance request was previously brought to ZBA and if variance requests also went in front of DRC.

CDD Smith explained it was not, as the Public Hearing already happened and Staff could not second guess what was happening in public meetings.

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Commissioner Sagar stated that the Commission has legal guidance and a decision tree from City Attorney Matt Boyle which the Commission is supposed to follow when considering variance requests. She also stated that given that Mr. Avery had obtained a building permit to construct a house on one of the lots demonstrated that there was no hardship and no legal basis for granting the four variances requested by the applicant. Commissioner Sagar acknowledged the fact that the City Council had granted three of the variances to Mr. Avery, which they have the prerogative to do, but that that in her opinion the Commission was obligated to follow the City Attorney's legal guidance, and therefore did not support the applicant's request.

Commissioner McWhorter agreed with Commissioner Sagar. He added the Applicant had not submitted plans for the build, therefore the picture was not clear.

Commissioner Osgood stated he came to the meeting in support of the first three variance requests. He added that he originally thought the fourth variance request was possible. However, when the Applicant stated the desire to add a pool, he had some concern. He said the addition of a pool would negate the buffer that was said to be desired and he could not support.

Commissioner Ponder said he did not support the requests from the beginning, and although City Council was very generous, he could not support.

Commissioner Thompson asked Staff if any hardship was imposed after the purchase of the lots.

Planner Smithers stated there was not.

Commissioner Thompson stated all of the requirements were in place when the properties were purchased.

**Commissioner Alvarado made a motion to approve Item D (4), including the first three variances, but to deny the fourth request to modify the front setback to 25-feet, seconded by Commissioner Thompson. The motion carried 5 - 2. Yay: Commissioner Thompson, Commissioner Osgood, Commissioner Alvarado,**



**E. ADJOURN**

Chairperson Ponder adjourned the meeting at 8:03P.M.

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Chairperson

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Amy Botcher, Planning Technician