



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

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

---

Tuesday, July 12, 2022

---

**PRE-MEETING BRIEFING 6:00 P.M.**

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

Chairman Ponder called the meeting to order at 6:04 p.m.

The following Commissioners were present:

Gary Ponder, Chairperson  
Leslie Sagar  
Ross Brensinger  
Bob Apke  
Thomas Thompson  
Greg Will  
Paul Alvarado

The following Commissioners were absent:

Ralph Osgood  
Tom Brymer

Staff present included Community Development Director (CDD) Julie Smith; Assistant Community Development Director (ACDD) Sarah Hensley; Planner I, Amber Washington; City Engineer, Chad Bartee; and Siale Langi, Economic Development Specialist.

**B. ADMINISTRATIVE COMMENTS**

1. Briefing regarding City Council action on Tuesday, July 5, 2022.

CDD Smith reviewed the July 5, 2022 City Council work session discussion on the Short Term Rental draft ordinance; she said no decisions were made and that Council would revisit the topic at one of their meetings in September.

ACDD Hensley gave a brief recap of the July 5, 2022 City Council action on new business items:

- CJ's Salon & Suites Specific Use Permit (SUP): Approved unanimously
- Missing Peace Autism Therapy SUP for medical use in Old Town Keller zoning district: Approved unanimously
- Goody Goody Liquor Store SUP amendment pertaining to signage: Approved 6-1
- Goody Goody Liquor Store Site Plan Amendment pertaining to signage: Approved 6-1

## C. WORK SESSION

1. [Discuss Unified Development Code amendments related to sidewalk modifications.](#)

CDD Smith explained that the item would be presented by Public Works staff at the August 23, 2022 Commission meeting.

2. [Proposed Noise Ordinance and Old Town Keller UDC Amendment Update.](#)

CDD Smith and ACDD Hensley presented the proposed noise ordinance and Unified Development Code (UDC) amendment related to outdoor and indoor entertainment in the Old Town Keller (OTK) zoning district.

Commissioner Brensinger brought up the fact that schools using PA systems may be impacted by the proposed noise ordinance.

The Commissioners discussed the potential for adding a decibel level to the ordinance; CDD Smith encouraged the Commission to reach out to City Council with further comments since the noise ordinance would not go before the Commission for a recommendation.

The Commissioners discussed the property owner being the best and most appropriate party to issue citations to in the case of a noise violation.

## D. DISCUSS AND REVIEW AGENDA ITEMS

D-1 Minutes: Commissioner Brensinger's comments have been incorporated.

D-2 SUPs for 336 S. Pearson: No comments from the Commission.

D-3 Penguin Patch SUP: CDD Smith pointed out that the warehousing is what triggered the SUP, not light manufacturing. She also commented that as of today staff has received opposition from about 8% of the properties within the 200-foot buffer.

Commissioner Sagar asked for clarification on what uses are allowed in the Commercial zoning district. CDD Smith responded with information on the zoning district, and explained how the business operates. She also commented that the Tech/Flex Future Land Use Plan designation anticipates structures like what is proposed by Penguin Patch.

Commissioner Thompson said he intended to ask the applicant about delivery frequency. He also asked about what the Commission should focus on in this case; CDD Smith advised the Commission look at the considerations outlined in the UDC.

Chairman Ponder commented that he sees the Commission as an impartial body charged with making an unbiased and apolitical recommendation to the Council.

Commissioner Sagar commented on one of the letters that mentioned green space, and clarified that whatever develops there is unlikely to be green space, as it is not designated as a park and is zoned Commercial. She mentioned development on Keller Parkway had received a similar reaction from the Saddlebrook neighborhood.

Commissioner Apke asked for clarification on whether or not the project was consistent with the FLUP; CDD Smith confirmed that it was.

D-4 Winding Creek Preliminary Site Evaluation (PSE): CDD Smith stated that staff fully supports the two variances proposed.

Commissioner Brensinger asked about the plans that show houses built within the floodplain; City Engineer Bartee explained that the city allows reclaiming, and that the floodplain line will actually move prior to a building permit being issued.

CDD Smith commented that this was not uncommon with custom builds, as is the case for this project. City Engineer Bartee said the project will also have to go through FEMA approval with a Letter of Map Revision. He explained that the city follows FEMA floodplain management guidelines that help residents' flood insurance.

D-5 OTK UDC Use Chart Amendment: No comments from the Commission.

## **E. ADJOURN**

Chairman Ponder adjourned the pre meeting at 7:06 p.m.

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

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

Chairman Ponder called the regular meeting to order at 7:12 p.m.

### **B. PLEDGES TO THE FLAGS**

1. Pledge to the United States Flag
2. Pledge to the Texas Flag

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

This is a time for the public to address the Board/Commission on any subject. However, the Texas Open Meetings Act prohibits the Board/Commission from discussing issues which the public has not been given seventy-two (72) hours' notice. Issues raised may be referred to City Staff for research and possible future action.

No public comments were received.

## D. NEW BUSINESS

1. [Consider the minutes of the June 14, 2022 Planning & Zoning Commission meeting.](#)

**A motion was made by Commissioner Robert Apke, seconded by Commissioner Paul Alvarado, to approve the minutes of the June 14, 2022 Planning & Zoning Commission meeting. The motion carried unanimously.**

2. [PUBLIC HEARING: Consider a request for two Specific Use Permits \(SUPs\) to allow the property owner to construct an Accessory Dwelling Unit on approximately 2.02 acres of land, approximately 700 feet northwest of the intersection of South Pearson Lane and Union Church Road, legally described as Lot 1, Block A of Rockwell Addition, Zoned Single-Family 36,000 square-feet or greater \(SF-36\), and addressed 336 S. Pearson Lane. Stephen O’Roark, Owner/Applicant. \(SUP-22-0022\)](#)

Planner Washington gave a presentation reviewing the SUPs requested for the proposed Accessory Dwelling Unit that will, when combined with the other existing accessory structure, exceed 50% of the square footage of the existing home.

The applicant, Stephen O’Roark, addressed the Commission and said they were very glad to be in Keller.

Chairman Ponder opened the public hearing.

No public comments were received.

**A motion was made by Commissioner Tom Thompson, seconded by Commissioner Gregory Will, to close the public hearing. The motion carried unanimously.**

The Commissioners had no questions.

**A motion was made by Commissioner Paul Alvarado, seconded by Commissioner Tom Thompson, to approve Item D-2 as presented. The motion carried unanimously.**

3. [PUBLIC HEARING: Consider a request for a Specific Use Permit \(SUP\) to allow the use of light manufacturing/warehousing, wholly enclosed in a building, for the Penguin Patch, in an approximately 36,000 square-foot space for Phase I and approximately 5,500 square-foot space for Phase II, on the property legally described as Abstract 457 Tract 14C03 of John Edmonds Survey, being 4.07-acres, approximately 270 feet southeast from the intersection of W. Bear Creek Parkway and Chisholm Trail, zoned Commercial \(C\), and addressed as 721 Chisholm Trail. Jennifer Randklev, Penguin Patch, Applicant. Michael L. Moore, Owner. \(SUP-22-0024\)](#)

CDD Smith presented the SUP request related to light manufacturing/warehousing for the Penguin Patch business.

Melanie Jackson, Marketing Director for Penguin Patch addressed the Commission and said the business was community-oriented, and mentioned that Special Education students have the opportunity to work for the business. She also said the business does a lot of service activities for students across the country, including providing school supplies

to students and teachers and volunteering at Christ's Haven.

Chairman Ponder opened the Public Hearing.

Paul Benson, 737 Santa Fe Trail, told the Commission he and his wife have significant concerns about the proposed project. He said his primary objection is that the structure is a warehouse that he does not feel fits in the area, and that he is concerned about security and the surface wall proposed.

Sheryl Parks, 389 LaQuinta Circle South, commented that while she applauds the company, she has concerns with the size and aesthetics of the building. She expressed concerns with the increase in traffic in the area.

Robert Davis, 201 Dodge Trail, stated that he can appreciate the efforts of the architect on the project, but has concerns on where the loading area is in proximity to his home, and also expressed concern with the increase in traffic in the area.

Latisha Pennington, 232 Rancho Grande Trail, said the proposed building would be directly viewable from her front door. She expressed concern over the timing of the notification letter, that there were others opposed in the adjacent neighborhood.

**A motion was made by Commissioner Tom Thompson, seconded by Commissioner Paul Alvarado, to close the public hearing. The motion carried unanimously.**

Commissioner Sagar commented on the role of the Planning & Zoning Commission as a recommending body, not the final decision-making body. She asked if the project complied with the Future Land Use Plan (FLUP); CDD Smith confirmed that it does and specifically conforms to the expectations of the Tech/Flex FLUP category.

Commissioner Sagar stated the property in question has been zoned Commercial for many years, and asked what types of uses would be allowed by right in the Commercial zoning district. CDD Smith said the following uses were among those allowed by right: commercial nurseries, hotel, parking garage, athletic stadium, building material and hardware stores, schools, community or fitness centers, car wash, public utility structure. She stated others would be allowed by SUP.

Commissioner Sagar asked the project architect to address the public comments on security, outdoor lighting and traffic. Matthew Beam, of MB Studio and architect for the Penguin Patch project, stated that the plan would be for architectural and accent lighting. He also said they had a trip generation analysis prepared by an engineer. Commissioner Sagar said from her perspective, there were a lot of other less desirable uses than what was proposed that could be allowed by right.

Commissioner Apke asked Ms. Jackson about delivery frequency; she said trucks would

not come in on a daily basis and that deliveries were sporadic. She said normal operating hours were 8-5 but later during the busiest part of the season. Marvin Nunez, General Manager for the Penguin Patch, said trucks were typically received in the August/September time frame, and that during peak season (end of November through mid-December) there are staged trailers for a short period of time. Commissioner Apke asked how many high school students were employed; Mr. Nunez answered that the students would be part of the total employee count and typically would be completing their shifts around 7 p.m. Commissioner Apke asked the project architect how the loading dock was screened; he showed on the plans the location of landscaping and how the loading area was recessed into the building.

Commissioner Apke asked if there was any activity at the building when the business was closed for holidays; Ms. Jackson explained there would be minimal activity.

Commissioner Thompson asked about the structures nearby; CDD Smith explained the city's Municipal Service Center was located to the north. Commissioner Thompson asked if the warehousing element might be expected in the Tech/Flex FLUP category; CDD Smith said that warehousing was a fairly small portion of the business. Commissioner Thompson asked if the building could possibly mitigate noise from the railroad; CDD Smith confirmed it could. Commissioner Thompson asked additional questions of the applicant related to later seasonal hours and deliveries. Mr. Nunez said most employees would leave by 7:30 p.m. and that most deliveries were via a box truck, not a tractor-trailer. He also explained the manufacturing portion of their business was assembling, not involving heavy equipment.

Commissioner Alvarado commented on the other uses that could come to this location by right with no city input on the aesthetics. He asked the architect if any detail was available on species proposed in the landscaping; Mr. Beam said they would utilize a landscape architect and focus on native species. Commissioner Alvarado asked if the structure was larger than the business' existing structure; the applicant said it was, but that they have no plans on using the building for anything other than Penguin Patch.

Commissioner Will thanked the public for their participation and commented that he applauded the applicant for proposing a project that fit in with the family-friendly vision for Keller.

Chairman Ponder summarized the SUP process and how it differs from uses allowed by right.

**A motion was made by Commissioner Tom Thompson, seconded by Commissioner Ross Brensinger, to approve Item D-3 as presented. The motion carried unanimously.**

4. [Consider a request for a Preliminary Site Evaluation with two variances for Winding Creek Addition, a proposed ten single-family residential lot and one open space lot subdivision, on 12.21 acres of land on the south side of Johnson Road, approximately 1,800 feet from the intersection of Johnson Road and North Pearson Road, being tracts 1D and a portion](#)

[of 1D01, Abstract 1153 out of the John Martin Survey, zoned Single-Family Residential 36,000 square-foot minimum lot sizes or greater \(SF-36\), and addressed 1808 Johnson Road and a portion of 1816 Johnson Road. Cary Clarke, Devane Clarke Partnership, Ltd., Owner/Applicant. \(PSE-22-0003\)](#)

CDD Smith gave a presentation on the Preliminary Site Evaluation (PSE) with two variances requested for the Winding Creek Addition on Johnson Road. She stated that staff supports the variances because of the importance of aligning Greenbriar Drive and explained that the floodplain line will have to be adjusted before a final plat will be approved for the lots that show homes constructed in the floodplain on the PSE.

The applicant, Cary Clarke, stated his family has owned the property for about 15 years and that they were very excited about the project. He acknowledged the challenges of the floodplain and expressed confidence that his team will be able to work through them.

Commissioner Apke commented that he felt the requirements for granting a variance had been met for both lots.

Commissioner Thompson asked about the connection to Pearson; the applicant confirmed it would be a true connection.

Commissioner Brensinger asked about a privacy fence and landscaping along Johnson Road, and if the project could be impacted by the proposed widening of Johnson Road; CDD Smith explained the screening wall and landscaping would be within the easement, not within the right-of-way needed to widen the road. Commissioner Brensinger asked if the applicant had considered not connecting to Pearson Crossing; the applicant explained staff had encouraged them to make the connection. City Engineer Bartee added that the length of Pearson Crossing is a safety issue that would not be allowed by today's standards, and that it was always intended to be extended.

**A motion was made by Commissioner Paul Alvarado, seconded by Commissioner Leslie Sagar, to approve Item D-4 as presented. The motion carried unanimously.**

5. [PUBLIC HEARING: Consider a recommendation for an amendment to the City of Keller Unified Development Code \(UDC\), adopted by Ordinance No. 1746 dated July 7, 2015, by amending Article 3 - Definitions and Article 8 - Zoning Districts, Development Standards, Tree Preservation, related to indoor and outdoor entertainment; authorizing publication; provide for penalties; and establishing an effective date. City of Keller, applicant. \(UDC-22-0004\)](#)

CDD Smith presented the proposed UDC amendments related to indoor and outdoor entertainment definitions and the use charts in the Old Town Keller (OTK) zoning district.

Chairman Ponder opened the public hearing.

No public comments were received.

**A motion was made by Commissioner Robert Apke, seconded by Commissioner Tom Thompson, to close the public hearing. The motion carried unanimously.**

The Commission had no questions.

**A motion was made by Commissioner Robert Apke, seconded by Commissioner Tom Thompson, to approve Item D-5 as presented. The motion carried unanimously.**

**E. ADJOURN**

Chairman Ponder adjourned the meeting at 9:07 p.m.

---

Chairperson

---

Staff Liaison