



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, April 12, 2022

PRE-MEETING BRIEFING 6:30P.M.

A. CALL TO ORDER – Chairperson Ralph Osgood

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

The following Commissioners were present:

Ralph Osgood
Bob Apke
Leslie Sagar (virtual)
Thomas Thompson
Thomas Brymer
Ross Brensinger
Greg Will

The following Commissioners were absent:

Gary Ponder, Chairperson
Paul Alvarado

Staff present included: Community Development Director, Julie Smith; Assistant Community Development Director, Sarah Hensley, City Engineer, Chad Bartee; Economic Development Specialist, Siale Langi; Planner II, Katasha Smithers; Planner I, Amber Washington; Director of Information Technology, Sean Vreeland; and Keller Police, Captain Lemoine.

B. ADMINISTRATIVE COMMENTS

ACDD Hensley stated at the City Council meeting on April 5, 2022, a work session was held discussing the North on Main Overlay District (NMOD). The Council gave Staff direction to start crafting the framework before returning for additional work sessions. She added there was also discussion on the new committee proposed for large projects.

She said Dutch Bros. was on the agenda but they requested it to be tabled due to the owner not being available to speak at the meeting.

ACDD Hensley stated the Food Truck Ordinance passed 5-1 with some modifications.

C. DISCUSS AND REVIEW AGENDA ITEMS

D1. Minutes for the March 29, 2022, Planning and Zoning Commission Meeting.

CDD Smith stated there were grammatical corrections sent in by Commissioner Brensinger and those changes were made.

D2. SUP for Alpha and Omega Chiropractic at 252 S. Elm Street.

Planner Washington gave a brief description.

Commissioner Brensinger asked if Chiropractic offices were considered Spa or Medical use.

CDD Smith responded they were Medical under our definitions.

Commissioner Brymer asked if there was any connection for the location, as its proximity to Baylor Medical Plaza.

CDD Smith responded this location was chosen more likely for the proximity to Old Town Keller and everything it had to offer. She added the Medical use required the SUP.

Commissioner Brymer asked if Keller was getting mixed uses in Old Town Keller or if there was a higher concentration of one thing.

EDS Siale Langi responded there were 13 medical offices between Bear Creek Parkway and Johnson Road with different specialties.

Commissioner Will asked if this use would require additional parking.

CDD Smith stated the previous tenant was a boutique, so the parking ratio would be the same. She added there was not a trip generation required from Public Works.

D3. SUP for detached accessory building at 990 Elkin Lane.

Chairperson Osgood stated the item has been removed from the agenda, and noticed for a future meeting.

D4. Amendment to the UDC related to CBD, Vape and Smoke shops.

ACDD Hensley gave a brief presentation.

Commissioner Thompson asked what the police department was seeing as issues with this type of business.

Keller Police Captain, Lemoine, stated there were calls from the High School, where young adults were having medical episodes. With their investigation, it was found that CBD or Delta 8 were the common thing. The police department discovered eight locations that were selling these items to underage persons.

Commissioner Brensinger asked if this Ordinance would prohibit only in stand-alone stores, but allow for gas stations.

CDD Smith responded the way it was written, it would include businesses that have these items as their main sales.

Commissioner Thompson asked if the shops were to have a legal infraction, could the Ordinance include the “grandfathered shops” having to be brought up to the current code.

CDD Smith explained that was not the definition behind “grandfathered”. Captain Lemoine added infractions can also be assessed by the Comptroller’s office.

E. ADJOURN

Chairperson Osgood adjourned the Pre-Meeting at 7:02P.M.

REGULAR MEETING 7:00 P.M.

A. CALL TO ORDER –Chairperson Ralph Osgood

Chairperson Osgood called the meeting to order at 7:09P.M.

B. PLEDGE OF ALLEGIANCE

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

C. PERSONS TO BE HEARD

There were no persons to be heard.

D. NEW BUSINESS

1. [D \(1\) Consider the Minutes for the March 29, 2022, Planning and Zoning Commission Meeting.](#)

Commissioner Will made a motion to approve Item D (1), seconded by Commissioner Brensinger. The motion carried unanimously.

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2. [D \(2\) PUBLIC HEARING: Consider a request for a Specific Use Permit \(SUP\) for Alpha & Omega Chiropractic, a chiropractic office on .59 acre located on the west side of Elm Street, northwest of the intersection of Elm Street and Pecan Street, legally described as Lots 5 and 6, Block 7 of Keller, City Addition, zoned Old Town Keller \(OTK\) and addressed as 252 S. Elm St. Keller Kidz Holdings LLC/Sridhar Gajula, Owner. Morgan Himango, Applicant. \(SUP-22-0004\)](#)

Planner Washington stated the Applicant applied on March 15, 2022 for a Specific Use Permit to operate a chiropractic office at 252 South Elm Street Building A. She said the Applicant proposed to provide cash-pay-only chiropractic care to the prenatal, pediatric, and young-family population. They also planned to sell merchandise including T-shirts, coffee mugs, essential oils, self-care products, and supplements. Chiropractor practices were considered medical uses and fall under Medical Offices in the UDC, which require an SUP in the Old Town Keller zoning district.

The proposed hours of operation were Monday through Thursday 8 a.m. to 12 p.m. and 2-6 p.m. The Applicant also proposed to hold after-hours events and classes 1-2 times per month. These sessions would be in the evening from 7-8:30 p.m. on one of the regularly opened days.

Chairperson Osgood asked if the Applicant had anything to add.

The Applicant, Morgan Himango, and Hanna said they graduated in 2021 and would like to open this business to empower people to seek health and wellness in the community.

Chairperson Osgood opened the Public Hearing.

Commissioner Apke made a motion to close the Public Hearing, seconded by Commissioner Thompson. The motion carried unanimously.

Commissioner Thompson stated he appreciated chiropractic care. He asked what percentage of retail sales to professional care would be. He asked to confirm there would only be two chiropractors and therefore not an issue with parking.

The Applicants stated the chiropractic care would be the main component with some supplemental retail aspects. They said they would be the only two chiropractors.

Commissioner Sagar stated the application was reasonable and had no objection.

Commissioner Will said he was excited for this establishment to come into Old Town Keller.

Commissioner Apke asked if the after-hours meetings would be inside the building or offsite. He inquired if the Applicants anticipated a large turn out for these events that could cause parking issues.

The Applicants said they hoped to do more intimate events in the building and also online.

Commissioner Apke agreed it would be harmonious and supported.

Commissioner Thompson made a motion to approve Item D (2), seconded by Commissioner Will. The motion carried unanimously.

3. [D \(3\) PUBLIC HEARING: Consider a request for a Specific Use Permit \(SUP\) for a detached accessory building on one acre located on the south side of Elkin Lane, approximately 600 feet southwest from the intersection of North Pearson Lane and Florence Road, legally described as Lot 1, Block 2 of Arabian Horse Country Addition, zoned Single-Family 36,000 square-foot lot size or greater \(SF-36\) and addressed 990 Elkin Lane. Valter Moreira, Owner/Applicant. \(SUP-22-0005\)](#)

Chairperson Osgood stated this item would be re-noticed with the corrected square-footage and will be held on April 26, 2022.

4. [D \(4\) 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, Developmental Standards, Tree Preservation, related to CBD, Vape and Smoke Shops; authorizing publication, provide for penalties, and establishing an effective date. City of Keller, Applicant. \(UDC-22-0002\)](#)

KPD Captain Lemoine stated in January 2022, Keller Police Department Criminal Investigations Division (CID) reviewed data related to medical calls at Keller High related to substances derived from the cannabis plant via edibles, vape devices, etc. He said in February 2022, CID detectives identified 8 Keller businesses that sold vaping products along with tobacco, and conducted an undercover sting operation that resulted in 2 citations for separate businesses selling tobacco to minors. In March 2022, City Council requested a work session to learn more about the topic, and directed staff to prepare a UDC Amendment that would restrict CBD, Vape and Smoke Shops to the Retail and Commercial zoning districts and require them to obtain an SUP.

Captain Lemoine explained what CBD was. He said Cannabis sativa L. was the plant from which both marijuana and hemp were derived. CBD, or cannabidiol, was one of many naturally occurring chemical compounds of Cannabis sativa L., and was non-intoxicating and has been shown to be effective in treating a variety of medical conditions. Tetrahydrocannabinol, or THC, was another compound of the cannabis plant. The main difference between hemp and marijuana was the amount of THC, which was the chemical compound that created the “high” effect.

He said Delta-8 tetrahydrocannabinol, also known as Delta-8, was a psychoactive substance found in the Cannabis sativa plant (Marijuana and Hemp). Delta-8 THC was one of over 100 cannabinoids produced naturally by the cannabis plant but was not found in significant amounts in the cannabis plant. As a result, concentrated amounts of Delta-8 are typically manufactured from hemp-derived cannabidiol (CBD). Delta-8 THC was not a substitute for CBD (non-intoxicating) as Delta-8 still had intoxicating effects.

Captain Lemoine further explained that the 2018 Federal Farm Bill and House Bill 1325, legalized hemp containing less than 0.3 percent. THC-Delta-8 fell into this category. Department of Health and Human Services (DSHS) later found Delta-8 to be a Schedule I controlled substance. This category was used for drugs that had no accepted medical use, such as heroin or cocaine. In October 2021, Texas Department of Health and Human Services publicized the same information and listed Delta-8 as a Schedule I controlled substance. This made it effectively illegal in the State of Texas.

ACDD Hensley provided a summary of the proposed amendments including: 1. Definitions for “Consumable Hemp Product (CHP)”, “E-cigarette” and “Retail sales of CHP, tobacco, e-cigarettes or non-traditional smoking-related products.” 2. Adding “retail sales of CHP, tobacco, e-cigarettes and/or non-traditional smoking-related products” to the use charts for the Retail and Commercial zoning districts as a use that may be approved with a Specific Use Permit. 3. Adding language to the Light Industrial zoning district clearly prohibiting “retail sales of CHP, tobacco, e-cigarettes and/or non-traditional smoking-related products.”

Chairperson Osgood opened the Public Hearing.

Commissioner Will made a motion to close the Public Hearing, seconded by Commissioner Brymer. The motion carried unanimously.

Commissioner Apke stated he thought it was good to control these types of businesses.

Commissioner Sagar stated she appreciated the work done by Staff and supported the change.

Commissioner Thompson stated he was saddened that the public did not turn out for the public hearing. He asked Staff to clarify that this type of business would be prohibited in Light Industrial zoning district.

ACDD Hensley confirmed they would not be permitted.

Commissioner Thompson asked if there would be any restrictions on distance to schools, etc.

Captain Lemoine responded there were some licensing regulations, however this Ordinance is specific for the businesses to follow the laws and Ordinances for Keller.

Commissioner Thompson asked for ACDD Hensley to confirm that an ownership change or business name change would require a SUP.

Captain Lemoine stated CBD and Delta-8 are not regulated substances. He added the “glass” was not considered paraphernalia until used for illegal substances.

Commissioner Will asked for clarification on determining the threshold for the business to be “primarily engaged” in the sales of these substances.

CDD Smith responded Staff that determination would be made when the items come forward to Planning & Zoning and City Council.

Commissioner Brymer asked Staff to confirm the existing eight shops were grandfathered.

CDD Smith stated if a business in existence was not required to have a SUP, we cannot require them to have one unless there is a name change, ownership change, change in footprint, etc.

Commissioner Brymer asked if the City’s Certificate of Occupancy process provided an opportunity to see if there was compliance or a lack there of.

CDD Smith responded that the Certificate of Occupancy was a great tool to use but do not have a time limit put on them.

Commissioner Thompson asked if the “primary sales” were determined by money or space.

CDD Smith responded that this type of use would be brought forward to the Commission to make those decisions.

Commissioner Thompson made a motion to approve Item D (4), seconded by Commissioner Apke. The motion carried unanimously.

E. ADJOURN

Chairperson Ponder adjourned the meeting at 8:24P.M.

Chairperson

Amy Botcher, Planning Technician