



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, August 25, 2020

PRE-MEETING BRIEFING 6:30 P.M.

A. CALL TO ORDER – Chairperson Gary Ponder

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

The following Commissioners were present:

Gary Ponder, Chairperson
Ralph Osgood, Vice Chairperson
Leslie Sagar
Tom Thompson
Paul Alvarado
Bob Apke
James Dawson
Phillip Maxwell

Staff present included Jerald Ducay, Planner I; Julie Smith, Director of Community Development; Sean Vreeland, Director of Information Technology and Amy Botcher, Planning Technician.

B. ADMINISTRATIVE COMMENTS

Planner Ducay stated there were three items that went to City Council on August 18, 2020. The first was for the re-zone/expansion of the Town Center Medical Overlay District to the properties addressed as 1200 and 1220 Keller Parkway. This was approved by City Council with a 5-1 vote.

The second item was a UDC amendment for J-Swing garages. The City Council unanimously approved this item.

The last item was for a mural on the Kwik Kar building. The City Council unanimously approved this item.

CDC Smith stated Planning and Zoning was given compliments for their discussion on the Town Center Medical Overlay District item. She said Councilman Tag Green voted against this item, however his concerns were acknowledged by Council and seemed to mirror some of the concerns of the Planning and Zoning Commission. City Council had expressed to Staff their need to revisit determining what the vision should be for Town Center.

Chairperson Ponder asked if there were any questions or comments from Commissioners.

There were no questions or comments.

CDC Smith wanted to address “takings” as a term used by the Commissioners. She stated the only entity that could determine if a takings had occurred or not was a court of law. She reminded Commissioners to be careful not to misrepresent if a takings had or had not happened. She stated it would be appropriate to state something “may create a takings challenge”, while at the same time being mindful of the implications of the word.

CDC Smith spoke about the properties at 1200 and 1220 Keller Parkway. She stated although this building was built with a specific purpose, (an urgent care facility), the zoning changed over time, and now prohibited such a use. She noted this rezoning would not constitute a takings, because the property could still be repurposed and used for other retail/commercial purposes. CDC Smith added you cannot remove all potential uses of the property without running a risk of a takings challenge.

Chairperson Ponder asked if there were any questions or comments from Commissioners.

There were no questions or comments.

C. DISCUSS AND REVIEW AGENDA ITEMS

C (1) Discuss and Approve Planning and Zoning Commission Meeting Minutes for August 11, 2020.

Commissioner Osgood stated on page 9 of the minutes, it was Commissioner Dawson that asked the Applicant why she was starting this business, not himself.

CDC Smith informed the Commissioners that that change had already been made.

Commissioner Apke stated the vote for items D1 and D2 in the minutes of August 11, 2020, was not published. (Note: this was already in the minutes.)

C (2) PUBLIC HEARING- Amendment to UDC to permit Surgical Out-patient Facility

Planner Ducay stated on August 18, 2020, the City Council approved the expansion of the Medical Center Overlay District for addresses 1200 and 1220 Keller Parkway. He reminded the Board that it had been mentioned at the previous Planning and Zoning meeting that if this item was approved by the City Council, the next step would be to request a UDC amendment. He stated the purpose of the request would be to add surgical outpatient facilities, as a permitted use in the Medical Overlay District with a Specific Use Permit (SUP).

Chairperson Ponder asked if there were any questions or comments from Commissioners.

There were no questions or comments.

C (3) PUBLIC HEARING- Amendment to UDC to Permit Front Facing Garages

Planner Ducay stated Staff had looked through the UDC to update sections that were important or could be beneficial to the City. He said the current UDC allowed front-facing garages to be 45-feet behind the property line with a maximum door size of 72 square-feet. He stated the proposed amendment would allow front-facing garage doors to be a maximum 144 square–feet if they were 100 feet or more behind the property line or right-of-way, whichever was closer.

Planner Ducay explained this was brought forward after a request by a resident to build a home with a two car, forward-facing garage.

CDC Smith stated City Council members, Beckie Paquin and Sherri Almond, had asked for this to be brought to Planning and Zoning for their consideration and discussion. She explained the 72 square-foot garage accommodated a single car, while a 144 square-foot garage accommodated two cars. It was thought the current requirements could be too restrictive, and it would be helpful to add some flexibility.

Commissioner Thompson asked for confirmation that the item was to allow two-car, forward-facing garages at least 100 feet from the property line. He stated he had difficulty dictating aesthetics in today's society with all of the new products available as well as architectural trends.

CDC Smith said traditionally, as was previously discussed regarding J-Swing garages, front-facing garages were prevalent many years ago on small lots but fell from fashion. However, she stated a new growth in front-facing garages for even large, high-end homes was occurring. Staff recommended locating such structures at least 100 foot from the property line or right-of-way to ensure the aesthetic vernacular desired by the City of Keller. She also noted some of these structures would be hard to see from the street, therefore Staff struggled to explain to residents why this was not allowed.

Commissioner Thompson asked if it would make more sense to tie this to a zoning classification.

CDC Smith responded that she preferred not to do that mainly because Keller had some historic, large lots that had been rezoned into much smaller classifications. The Staff proposal would allow these large lots to take advantage of this new architectural trend. Staff recommended moving forward in this direction as it would also include smaller zoning districts. She explained in the current request, the homeowner had no basis for a variance to go to ZBA. CDC Smith acknowledged the expense for homeowners to redraw the plans was not the concern of the City, but it brought to light the question of whether this was a necessary restriction in the community.

Commissioner Sagar stated a resident had contacted her with alarm regarding front-facing garages. She said she thought it was a reasonable request due to the 100-foot minimum distance and would support the proposal amendment.

Chairperson Ponder spoke of his appreciation for Staff staying apprised of the trends and the residents' interests. He stated consistency had been noticed and was appreciated by the Commission.

D. ADJOURN

Chairperson Gary Ponder adjourned the Pre-Meeting at 6:55 P.M.

REGULAR MEETING 7:00 P.M.

A. CALL TO ORDER – Chairperson Gary Ponder

Chairperson Gary Ponder called the meeting to order at 7:00 P.M.

Chairperson Ponder expressed his gratitude to Staff, Sean Vreeland, Brent Rankin, Mark Hafner, the Mayor and City Council for granting the request of the Planning and Zoning Commission to have meetings virtually.

B. PERSONS TO BE HEARD

No one came forward.

C. NEW BUSINESS

[1. Consider approval of the Planning and Zoning Commission Meeting Minutes on August 11, 2020.](#)

Commissioner Osgood made a motion to approve Item C (1) as amended, seconded by Commissioner Sagar. The motion carried unanimously.

2. PUBLIC HEARING: Consider amendments to the City of Keller Unified Development Code (UDC), adopted by Ordinance No. 1746 dated July 7, 2015, by providing provisions to permit a “Surgical Out-patient Facility” use in the Town Center- Medical Overlay district by a Specific Use Permit, Article Eight –Zoning Districts, Development Standards, Tree Preservation; providing penalties; providing a severability clause; providing a conflicting of ordinances clause; authorizing publication; and establishing an effective date. (UDC-20-0005)

Planner Ducay gave a brief presentation on item C (2). He stated in 2014, a SUP and Site Plan were approved for “E-Care Emergency” at 1220 Keller Parkway. The second tenant (Legacy) operated out of this building less than a year before they moved out around 2015. He said in 2014, medical uses were permitted by an SUP or by right (depending on the medical use). However, the 2015 UDC update prohibited medical offices in the Town Center zoning district.

Planner Ducay stated on December 3, 2019, the City Council unanimously approved an ordinance to add the Town Center Medical Overlay District to the following properties: 1135, 1139, 1141, 1149, and 1151 Keller Parkway. This was followed by an expansion of the Town Center Medical Overlay district to the properties of 1200 and 1220 Keller Parkway by City Council on August 18, 2020.

He stated the property owner of 1220 Keller Parkway was requesting to amend Section 8.03 of the UDC to allow a Surgical Out-patient Facility use by a SUP in the TCM overlay district.

A Surgical Out-patient Facility use was defined in the UDC as “An establishment offering any type of surgical procedures and related care which, in the opinion of the attending physician, can be performed safely without requiring inpatient overnight hospital care and exclusive of such surgical and related care as licensed physicians ordinarily may elect to perform in their private offices.” However, patients may be held for up to 24 hours which could occasionally entail “outpatient” overnight care.

Chairperson Ponder opened the Public Hearing.

Richard Cole, representative, spoke on behalf of the ownership of 1220 Keller Parkway and offered to answer any questions anyone may have had.

Matt Flory, representative, called on behalf of the developer to help answer any questions anyone may have had.

No other person commented on the proposed amendment.

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

Chairperson Ponder asked if there were any additional questions or comments.

Commissioner Apke asked Staff if anyone had come forward in support or opposition of this item.

Planner Ducay responded no one had.

Commissioner Osgood stated he stood by his comments from the August 11, 2020, Planning and Zoning meeting.

Commissioner Sagar made a motion to approve Item D (2), seconded by Commissioner Thompson. The motion was approved by a vote of 5-2.

AYE: Commissioner Sagar, Commissioner Alvarado, Commissioner Dawson, Commissioner Apke, Commissioner Thompson.

NAY: Vice-Chairperson Osgood, Chairperson Ponder.

CDC Smith informed the Commission that should this item pass at City Council, the SUP request will be coming back to Planning and Zoning on September 1, 2020.

[3. PUBLIC HEARING: Consider amendments to the City of Keller Unified Development Code \(UDC\), adopted by Ordinance No. 1746 dated July 7, 2015, by providing provisions to permit front facing garages setback 100' in all Residential Zoning Districts Article Eight- Zoning Districts, Development Standards, Tree Preservation; providing penalties; providing a severability clause; providing a conflicting of ordinances clause; authorizing publication; and establishing an effective date. \(UDC-20-0006\)](#)

Planner Ducay gave a brief presentation on item C (3). He stated after receiving a request from a resident, two councilmembers requested that this proposed UDC amendment be brought forward

to the Planning and Zoning Commission and City Council for consideration. Planner Ducay said the purpose of this request was not to remove the existing provision, but to add language that also permits two-door, front-facing garages (144SF) in any residential zoning district if located a minimum of one-hundred (100') or more from the property line or right of way, whichever was closer.

Chairperson Ponder opened the Public Hearing.

There were no persons to speak.

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

Chairperson Ponder asked if there were any additional questions or comments.

Commissioner Alvarado thanked the Applicant for coming forward at this time.

Commissioners Sagar and Thompson stated their support.

Commissioner Osgood made a motion to approve Item C (3), seconded by Commissioner Alvarado. The motion carried unanimously.

Chairperson Ponder asked if there were any additional questions or comments.

Commissioner Sagar stated she appreciated the City Manager, City Council and Staff for continuing to allow virtual meetings for the Planning and Zoning Commission.

Commissioner Maxwell thanked Chairperson Ponder and the rest of the Commission for their recognition of the loss of his father-in-law recently.

D. ADJOURN

Chairperson Gary Ponder adjourned the meeting at 7:25 P.M.

Chairperson

Amy Botcher, Planning Technician