



City of Keller
Planning & Zoning Commission
Meeting Minutes

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

Monday, April 22, 2019

PRE-MEETING BRIEFING 6:30 P.M.

A. CALL TO ORDER - Chairperson: Gary Ponder

Chairperson Gary Ponder called the Pre-Meeting briefing at 6:31 P.M.

The following Commissioners were present:

Leslie Sagar
Carey Page
Ralph Osgood
Bob Stevens
Dave Reid
Bob Apke

Commissioner Vernon Stansell was absent. Staff present included Katasha Smithers, Planner I; JP Ducay, Planner I; Scott Bradburn, Planner I; Julie Smith, Community Development Director; Tracy Talkington, Police Captain.

B. ADMINISTRATIVE COMMENTS

1. [Briefing regarding City Council action on Tuesday, April 16, 2019.](#)

Director Smith asked the Planning and Zoning Commission to view the City Council video from April 16, 2019, pertaining to Gean Estates and in particular the Tree Ordinance. Councilmembers expressed similar concerns perviously raised by Commissioners. Director Smith informed the Commission that she had been working with Planner Bradburn on revising the Tree Ordinance, and the Commission could expect to see the Staff's Proposal in four weeks.

Chairperson Ponder discussed the technical difficulties with Legistar since the change three weeks ago. Staff reminded the Commissioners that the password for Legistar must be changed every 180 days. Chairperson Ponder asked if Brent Rankin, with Information Technology, would send a password reminder. Several Commissioners commented that they had been sent the reminder, prompting them to change their password. However, Commissioner Reid was not prompted and had been locked out. IT Rankin will assist Commissioner Reid and other Commissioners having similar issues.

Commissioner Page said on Thursday, April 18, 2019, the hyperlink for the items under "New Business" was not working properly on his computer. He explained that on Friday, April 19, 2019, the legislative text was not visible. Planner Smithers explained to

Commissioner Page how to fix the problem. Commissioner Page said the general public would not know this same fix and would not be able to access the information. He further suggested Legistar adjust their software so viewing the text would be automatic. Director Smith offered to pass on the request to the City Secretary, Kelly Ballard, who works directly with Legistar representatives.

Director Smith briefly discussed the Capital Improvement Advisory Committee (CIAC). The Commissioners act as the oversight committee for the impact fees program. Director of Finance, Aaron Rector, presents the information to the Commission twice a year. Mr. Rector is planning on attending the next Planning and Zoning Commission Pre-Meeting work session. The Commission will have a month to review the information and recommend any changes before making a recommendation at their June 10th meeting to City Council.

Director Smith discussed the Future Land Use Plan (FLUP), reviewed and scheduled with the Commission. A work session will be held on May 7, 2019, with City Council. City Council will hold additional discussion on the FLUP on May 21, 2019, and then City Council will vote on the FLUP on June 4, 2019. Director Smith lets the Commission know the FLUP will not come back to the Planning and Zoning Commission for a vote. Commissioner Reid suggests publishing the FLUP work session, and review schedule on the website.

2. The May 27, 2019 Planning and Zoning Commission is cancelled due to the Memorial Day Holiday.

C. DISCUSS AND REVIEW AGENDA ITEMS

Discussion held regarding D-1 (Fence Variance) for Mr. Demma to obtain a fence permit for a wrought iron fence with cedar slats.

Planner Ducay gave a brief synopsis of the prior presentation and stated the developer would be available tonight for questions.

Discussion held regarding E-1 (Minutes):

The Commissioners stated that there were no issues with the 4/08/2019 minutes. Commissioner Sagar commented that the minutes were outstanding.

Discussion held regarding E-2 (Final Plat for Highland Oaks Crossing):

Planner Smithers gave details pertaining to the Final Plat.

Discussion was held regarding the public hearing for E-3 (SUP for a Veterinary Clinic at 1100 Whitley Road).

Planner Smithers gave an overview of the case and explains the clinic will be in Commercial zoning and face Keller Wall-Price Road.

Commissioner Osgood asked if there will be outside pens.

Planner Smithers explained there will be no outside pens but two enclosed areas for accompanied animals to go outside to relieve themselves.

Commissioner Sagar asked about location and noise.

Planner Smithers informed the Commission that Clay Christie, the developer with the project, will be available for questions. Planner Smithers explained that Clay Christie has reached out to Flanigan Hill Home Owner's Association. The contact for Flanigan Hill HOA has yet to get back with Clay Christie concerning any issues or concerns.

Discussion was held regarding the public hearing for E-4 (SUP to Sell Used Goods and Merchandise- specifically vintage toys).

Planner Bradburn gave a brief presentation of the case.

The Commissioners had no further questions.

D. ADJOURN

Meeting went into Recess at 6:52 P.M.

Meeting Reconvened 7:02 P.M.

REGULAR MEETING 7:00 P.M.

A. CALL TO ORDER – Chairperson: Gary Ponder

Chairperson Gary Ponder called the meeting to order at 7:02 P.M.

B. PLEDGE OF ALLEGIANCE

Commissioner Page led the Pledge of Allegiance to the United States Flag and the Pledge to the Texas Flag.

C. PERSONS TO BE HEARD

No public comments were received.

D. OLD BUSINESS

1. [Consider a request for a variance to the Unified Development Code, Section 8.11 \(C\), Fencing Requirements in Residential Zoning Districts, to allow an existing fence to remain both iron and cedar material for privacy purposes, located on 0.882-acre lot, on the east side of Betty Lane, being Lot 7, Block A, Timberview Estates Addition, at 1109 Betty Lane \(Account# 03153479\), and zoned Single Family Residential – 36,000 square-foot lot size minimum \(SF-36\). Polaris LLC, applicant/developer. Don and Lisa Tice, owners. \(UDC-19-0005\)](#)

Attachments: [040819_TiceFenceUDC-19-0005_Attachment\(A\)](#)
[040819_TiceFenceUDC-19-0005_Attachment\(B\)](#)
[040819_TiceFenceUDC-19-0005_Attachment\(C\)](#)
[040819_TiceFenceUDC-19-0005_Maps](#)

Planner Ducay gave staff's presentation for the UDC Variance for a fence located at 1109 Betty Lane. The request is to obtain a variance to combine both wrought iron and cedar slats in one fence. Currently, the UDC permits either material but not both. Brian Demma (Fence Builder) was available for questions.

Chairperson Ponder asked if the applicant had anything he wanted to add to the presentation.

Mr. Demma explained that privacy was the main concern of the Owners. The topography of the land has a drop in elevation of approximately 11 feet, and the Owner also has a pool.

Commissioner Reid asked if the iron portion of the fence was built first. Mr. Demma states it was and that the cedar slats were added later. Commissioner Reid asked Mr. Demma if he had any thoughts that adding the slats might not be permitted nor matched the original permit application.

Mr. Demma said no. With cedar already on the back fence, he thought it would be okay.

Commissioner Sagar expressed the problem caused by having a permit to build the iron fence and then changing the plans.

Mr. Demma explained, he thought "either/or" meant he could have both.

Commissioner Sagar expressed to Mr. Demma, "her appreciation in that he came to the meeting to answer their questions since the Commissioners did not know the reason for the variance. She had no problem with the fence, perse, and knew the issue was with the changing of material from the original plan.

Commissioner Osgood agreed with Commissioner Sagar's comments.

Commissioner Stevens asked whether there is a neighbor at 1101 Betty Lane.

Mr. Demma answered in the affirmative.

Commissioner Stevens asked whether the rod iron plus cedar slats design was a fence that everyone would want now and set a precedence?

Mr. Demma replied it was cost prohibitive. Mr. Demma explained that homes built by him all have iron fences at the front of the home (facing the street). Privacy fences are along the side and back if swimming pools are involved.

Director Smith reminded the Commission that any more fences built like this would also have to go through the variance process.

A motion was made by Commissioner Carey Page, seconded by Vice Chairperson Dave Reid, to approve the request for a variance to the fence at 1109 Bett Lane, allowing the iron fence with the Cedar slats. The motion carried unanimously.

E. NEW BUSINESS

1. [Consider approval of the minutes for the meeting from April 8, 2019](#)

Attachments: [Meeting Minutes April 22, 2019.](#)

Commissioner Sagar commented that the quality of the minutes are outstanding.

A motion was made by Commissioner Ralph Osgood, seconded by Commissioner Bob Stevens, to approve the minutes for the meeting from April 8, 2019. The motion carried unanimously.

2. [Consider approval of a Final Plat for Lots 3 & 4, Block A, Highland Oaks Crossing, being 1.48-acres located on the north side of North Tarrant Parkway, approximately 660 feet northeast of the North Tarrant Parkway and Rufe Snow Drive intersection, zoned Planned Development - Retail \(PD-R\), and located at 1855 Rufe Snow Drive. Richard Cohen, owner; Spry Surveyors, applicant/developer. \(P-18-0052\)](#)

Attachments: [04222019 HighlandOaksCrossing Maps](#)
[04222019 HighlandOaksCrossing ExhibitA FinalPlat](#)
[04222019 HighlandOaksCrossing Staff Attachment Ord1875](#)

Planner Smithers gave staff's presentation for the Final Plat of Highland Oaks Crossing. The Owner, Richard Cohen, was available to answer questions.

Chairperson Gary Ponder asked the Commission if there were any questions. The Commission had no questions.

A motion was made by Commissioner Leslie Sagar, seconded by Commissioner Robert Apke, to approve the Final Plat for Lots 3 & 4, Block A, Highland Oaks Crossing. The motion carried unanimously.

3. [PUBLIC HEARING: Consider a request of an SUP for North Texas Veterinarian Clinic to permit the use of a 'Veterinarian Clinic \(with or without outdoor pens\) includes grooming facility' located at 1100 Whitley Road \(Account# 41561562\), being a 2.562-acre tract at the intersection of Wall-Price Keller Road and Whitley Road, being Lot 7, Block A, Keller Plaza Addition, owned by Scheifley Real Estate LLC. \(SUP-19-0009\)](#)

Attachments: [04222019_NTXVet_Maps](#)
[04222019_NTXVet_ExhibitA](#)
[04222019_NTXVet_ExhibitA_SitePlan](#)
[04222019_NTXVet_ExhibitB_Email](#)
[04222019_NTXVet_StaffAttachment_ApprovedPlat](#)

Planner Smithers gave staff's presentation. The North Texas Veterinary Clinic currently offices on the west side of Main Street. They would like to build a new clinic at 1100 Whitley Road. This property is zoned Commercial which requires an SUP for veterinary clinics. The engineer, Clay Christy, was available to answer questions.

Chairperson Gary Ponder asked if there are any questions for staff or if the applicant had anything to add.

Mr. Christy informed the Commission that he was aware there had been concerns about noise. He also assured the Commission that there will be no outdoor pens for boarding. Mr. Christy added he reached out to the Flanigan Hill HOA and had spoke with a representative named Amy. Amy asked him to provide elevations of the veterinary clinic and he complied. Amy told Mr. Christy they would be in touch with him, but he has not yet heard anything.

Chairperson Ponder informed the public the Commission was holding a public hearing and noted at least one person wanted to speak.

LaDean Houck, a resident in Flanigan Hill, stated she was opposed the veterinary clinic due to the potential noise (day and evening), smell, impact property values, and the use of indoor or outdoor pens. She walks her dog and is concerned clinic dogs will bark.

Kimberly Washington, a resident in Flanigan Hill, also stated she was in opposition due to noise, associated the use - with or without pens.

A motion was made by Commissioner Leslie Sagar, seconded by Commissioner Ralph Osgood, to close the public hearing. The motion carried unanimously.

Director Smith explained the Commission could add conditions to the SUP prohibiting outdoor pens.

Mr. Christy provided more information to the Commission: the hours of operation would be during normal business hours, hospitalized animals would not be housed in outside kennels or pens, there would be no boarding of animals, and all animals would be under medical supervision that had indoor, overnight stays. Additionally, the area for animals to

relieve themselves would be at the rear of the business. This area would insure the noise level would be kept to a minimum and the animals would only be outside with employees for a short while. The technicians would clean up after the animals and maintain the area.

Commissioner Apke stated Mr. Christy had sufficiently addressed noise (given the hours of operation) and odor concerns since staff will maintain the two walking pens daily.

Commissioner Page suggested that the SUP include a condition prohibiting the boarding of animals for recreational purposes and also prohibiting holding pens outside.

Commissioner Reid was concerned about the impact to the nursing home to the south. He asked staff if anyone from the nursing home had reached out about the proposed SUP. Staff informed the Commissioner that they have not received any communication from the nursing home.

Commissioner Sagar said her concerns had been addressed.

Commissioner Osgood asked about the distance from the two outside walking pens to the fronting of properties in close proximity. Commissioner Osgood also wanted to know the size of the pens.

Mr. Christy stated the clinic was purposely sited on the west end of the property to be as far away from residential properties as possible. The closest property (the senior home to the south) would be between 75 and 110 feet away. Residential property is approximately 400 feet to the east. The approximate size of the pens are 30' X 12'.

Commissioner Stevens asked where the pens would be located and if there were plans to expand the veterinary clinic. Were there plans to divide any of the land fronting Whitley Road? What about noise impacting future use?

Mr. Christy stated the pens would be on the back of the property on the east side of the building. Mr. Christy said there were no plans to expand the clinic, and he did not believe there were plans at this point to subdivide the property though future development may be a possibility. As far as noise, Mr. Christy explained there was a fall in elevation from Whitley Road to the proposed site. This would help with noise concerns and any future development.

Chairperson Ponder asked Mr. Christy if he knew how many hospitalized animals might be staying over. Mr. Christy stated it depended on the surgery schedule and could vary. He did not know what the maximum number might be.

A motion was made by Commissioner Carey Page to approve the SUP for the use of a veterinary clinic with the conditions of no outside boarding and no outside holding pens, seconded by Commissioner Robert Apke. The motion carried unanimously.

4. [PUBLIC HEARING: Consider a request for a Specific Use Permit \(SUP\) for Empire Toys, for 'Sales of used goods and merchandise' to occupy an 800 square-foot lease space on the second floor, within a 7,318 square-foot commercial building, located on a 0.20-acre tract of land, located on the west side of South Main Street \(U.S. HWY 377\), at the intersection of West Hill Street and South Main Street \(U.S. HWY 377\), being Lot 3A and 3B, Block 2, City Addition - Keller, at 136 South Main Street \(U.S. HWY 377\), and zoned OTK \(Old Town Keller\). \(SUP-19-0008\).](#)

Attachments: [04222019_EmpiretoysSUP_Maps](#)
[04222019_EmpireToysSUP_Interiorphotos](#)
[04222019_EmpireToysSUP_SupportLetters](#)
[04222019_EmpireToysSUP_SupportParcels](#)

Planner Bradburn gave staff's presentation for the SUP to sell used goods and merchandise in Old Town Keller Zoning. The Owner of Empire Toys located at 136 South Main in Old Town Keller, Charles Mahoney, was requesting an SUP to sell vintage toys. Old Town Keller zoning district does not permit the selling of used goods without an SUP.

A motion was made by Commissioner Leslie Sagar, seconded by Commissioner Ralph Osgood to close the public hearing. The motion carried unanimously.

Commissioner Osgood asked what type of used toys would be sold.

Mr. Mahoney stated he planned to sell nearly any classic, nostalgic toy from the 1950's you could imagine as well as the modern toys he already was selling. These toys are pop-culture related, i.e. Star Wars, X-Men, etc.

Commissioner Page asked Mr. Mahoney if he bought used toys.

Mr. Mahoney stated he does buy used toys directly from the individual but also through market distributors. He does not sell toys on consignment.

Commissioner Page wanted to know if he was aware of a Federal law in which certain organizations like "Grace" or "The Community Storehouse" are not permitted to take in used toys; they can only accept new toys.

Mr. Mahoney said he is aware of that law and believed it applies to non-profits. Mr. Mahoney said he does not accept donated toys; he purchases all of his toys.

Commissioner Reid stated he is excited to see the toy store, plans to go, and had no further questions.

Commissioner Sagar thanked the applicant for reaching out to the neighbors in Old Town Keller. Mr. Mahoney said they were even more supportive than his customers.

A motion was made by Commissioner Bob Stevens, seconded by Commissioner

Ralph Osgood, to approve the Specific Use Permit (SUP) for Empire Toys, for the 'Sales of used goods and merchandise.' The motion carried unanimously.

F. ADJOURN

Chairperson Gary Ponder adjourned the meeting at 7:46 P.M.

Chairperson

Staff Liaison