



# City of Keller

## Planning & Zoning Commission

### Meeting Minutes

Keller Town Hall  
1100 Bear Creek Parkway  
Keller, TX 76248  
817-743-4000  
[www.cityofkeller.com](http://www.cityofkeller.com)

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Monday, June 10, 2019

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#### **CAPITAL IMPROVEMENTS ADVISORY COMMITTEE MEETING 5:30 P.M.**

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

Chairperson Gary Ponder called the CIAC meeting to order at 5:30 p.m.

The following Commissioners were present:

Gary Ponder  
Leslie Sagar  
Carey Page  
Dave Reid  
Vernon Stansell  
Ralph Osgood  
Bob Apke, Alternate (voting)

Commissioner Bob Stevens and Commissioner Paul Alvarado were absent. Staff present included Katasha Smithers, Planner I; Jerald Ducay, Planner I; Julie Smith, Community Development Director; Johnny Reyes, Code Enforcement Officer; Chad Bartee, City Engineer; Alonzo Linan, Director of Public Works; Aaron Rector, Director of Finance; Chad Allen, Police Captain.

##### **B. NEW BUSINESS**

1. [Consider approval of the minutes of the Capital Improvement Advisory Committee on May 13, 2019.](#)

Leslie Sagar stated that she spoke in regards to capacity rather than calming devices during the May 13, 2019, meeting and asked that the minutes be amended to so reflect.

Commissioner Page motioned to approve with Commissioner Sagar's amendment. Commissioner Osgood seconded, and the motion passed unanimously by a vote of 6-0. (Commissioner Stansell came in after the voting was obtained).

2. [Discuss and Approve the semi-annual impact fee report as to the progress of the Capital Improvements Plan of the City of Keller Water, Wastewater, and Roadway Impact Fee Study.](#)

Discussion held regarding the CIAC report included:

Alonzo Linan, Public Works Director, stated appreciation for Commissioners' recommended grammatical and editorial changes; they were incorporated. He then

addressed the issues identified in Commissioner Sagar's email to staff.

Director Linan agreed that the table indicating existing development when the impact fees went into effect could be clearer and more intuitive. However, because the table had embedded links to other tables and calculations, it would be difficult -and perhaps make it more confusing- to change it for this report. He offered to review possible alternatives before the next report and also recommended making changes during the next impact study to avoid the confusion.

Commissioner Sagar stated that the City of Keller spent more versus what was originally budgeted.

Director Linan reminded the Commissioners that the CIAC report was not a budget document but rather a projects document. He explained differences in actual cost versus original budget related to deviations from increased construction costs, etc.

Commissioner Sagar stated that the estimates were off the total budget instead of considering all items in the budget.

Director Linan indicated that the number in the report is an estimate and was used to develop the impact fees.

Aaron Rector, Director of Finance, stated that the impact fees reflect the rate, but the cost is higher. He explained that the City takes a conservative approach in terms of the rates applied; rates assessed are less than actually calculated. This assures that the City is not "profiting" from the impact fees nor is the City discouraging development. Mr. Rector added that the tables indicate real time.

Commissioner Sagar spoke in regards to the relationship between the costs identified in the impact fee study and what we are implementing.

Director Linan explained the difference between the number used for impact rate development versus the budget construction amount. The City has multiple projects that may be interrelated with other projects but the recommendation is to clearly reflect projects completed from the original list. Staff would have to update the tables. Instead of restructuring the tables now, staff will come back at a future CIAC meeting with clearer tables.

Commissioner Sagar stated that the report is much improved but she would like more clarity between what was approved and what we are implementing.

Director Linan described a map used historically to identify where the projects were. Instead of changing tables at this juncture, he recommended doing so at the following CIAC meeting.

Commissioner Sagar stated concerns regarding the basis for the projections in the past.

Commissioner Page indicated the growth rate of 2% was approved under protest by the CIAC.

Director Linan stated the City is not growing as fast as projected by the former Impact Study. In 2020, this rate should be revisited when developing the next five-year study.

**A motion was made by Vice Chairperson Dave Reid, seconded by Commissioner Carey Page, to approve the Semi-Annual Impact Fee Report regarding the City of Keller Water, Wastewater, and Roadway Impact Fee Study. The motion carried unanimously.**

## **C DISCUSSION**

## **D. ADJOURN**

Chairperson Gary Ponder adjourned the CIAC meeting at 5:59 p.m.

### **PRE-MEETING BRIEFING 6:06 P.M.**

## **A. CALL TO ORDER - Chairperson**

Chairperson Gary Ponder called the Pre-Meeting briefing to order at 6:06 p.m.

The following Commissioners were present:

Gary Ponder

Leslie Sagar

Carey Page

Dave Reid

Vernon Stansell

Ralph Osgood

Bob Apke, Alternate (voting)

Commissioner Bob Stevens and Commissioner Paul Alvarado were absent. Staff present included Katasha Smithers, Planner I; Jerald Ducay, Planner I; Julie Smith, Community Development Director; Johnny Reyes, Code Enforcement Officer; Chad Bartee, City Engineer; Chad Allen, Police Captain.

## **B. ADMINISTRATIVE COMMENTS**

1. [Briefing regarding City Council action on Tuesday, June 4, 2019.](#)

Planner Smithers discussed the outcome from the Tuesday, June 4, 2019, City Council meeting.

Director Smith also discussed the new residential building permit fees adopted by City Council as required by the Texas Legislature. Instead of basing residential building permit

fees on the value of the project, fees will be assessed on a square-footage basis (.84 cents/square foot).

2. [Briefing regarding current DRC projects and long-term projects.](#)

Planner Smithers discussed projects currently under review by the Development Review Committee (DRC) and the long-term projects under construction.

### **C. WORK SESSION**

1. [Discussion regarding Tree Ordinance](#)

Discussion regarding Potential Amendments to the Tree Ordinance.

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

Discussion was held regarding D.1 (Minutes):

No discussion.

Discussion was held regarding D.2 (Tiki Hut SUP):

Planner Ducay explained that Tiki Hut has been in operation since 2003 at this location. In the past, City Staff mistakenly assumed the business was grandfathered (legal, non-conforming) and approved the Certificate of Occupancy. However, because the business is seasonal and open less than six months each year, the legal, non-conforming status does not apply; the business requires a Specific Use Permit (SUP). The Applicant is proposing an SUP for 4 years similar to the other location in Keller.

Discussion was held regarding D.3 & D.4 (Front-yard fence height and garage addition, located at 1660 Willis Lane):

Planner Ducay discussed that the proposed new garage will front-face the street and so requires a UDC variance. Currently, the applicant is wanting to modify the structure but needs the garage to remain front-facing. Additionally, the Applicant is also asking for a variance for a 6-foot wrought iron fence to run across the front yard in lieu of the allowed 5 feet by Code.

Discussion was held regarding D.5 (Marshall Ridge Phase I South Tree Preservation Plan):

Planner Smithers explained why the applicant wants to conduct additional grading and tree removal in addition to that allowed by the 2014 approved Tree Preservation Plan. Any questions could be directed to the applicant.

Discussion was held regarding D.6 (Fence Amendments):

Director Smith stated that the goal is to make fence plan review and inspections simpler and give staff additional review and approval authority. The overall goal was to standardize

fence applications and construction to reduce the many variables the current UDC was generating.

Commissioner Page asked if allowed materials included vinyl. He requested staff to exclude vinyl as a permitted material.

Commissioner Sagar stated the bulk of the changes pertains to residential. However, she did not want to prohibit barbed wire or electrical fencing for agricultural applications. She also wanted to make sure pipe and cable fencing would still be permitted.

Commissioner Stansell asked how many of the 71 variance fence-related cases would these proposed changes affect.

Johnny Reyes, Code Compliance Officer, stated that the major fence companies have consistently requested these variances prior to building. These amendments would significantly reduce the number of needed variances.

## **E. ADJOURN**

Chairperson Gary Ponder adjourned the Pre-Meeting at 6:59 p.m.

### **REGULAR MEETING 7:11 P.M.**

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

Chairperson Gary Ponder called the meeting to order at 7:11 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. NEW BUSINESS**

1. [Consider approval of the minutes of the Planning and Zoning Commission Meeting on May 13, 2019.](#)

**A motion was made by Commissioner Sagar, seconded by Commissioner Apke, to approve the minutes. The motion carried unanimously.**

2. [PUBLIC HEARING: Consider a request for a Specific Use Permit \(SUP\) for The Tiki Hut of Keller to operate a temporary vendor business \(snow cones\), located on an approximately 0.5467-acre tract of land, on the east side of South Main Street \(U.S. HWY 377\), at the intersection of Bear Creek Parkway and South Main Street \(U.S. HWY 377\), being Lot 2RB1, Block 1, Bland Square Addition, at 705 South Main \(U.S. HWY 377\) accessory to Mr. Jim's Pizza \(Account #: 05744830\), and zoned C \(Commercial\).](#)

[\(SUP-19-0011\) Cathy Smith, applicant. Todd Hendricks, Property Owner.](#)

Planner Ducay gave staff's presentation. The Tikit Hut requested an SUP for seasonal use for a 4-year term. Cathy Smith, the Applicant was available to answer questions.

Chairperson Gary Ponder opened the public hearing.

No public comments were received.

**A motion was made by Commissioner Stansell, seconded by Commissioner Page, to close the public hearing for the Tiki Hut. The motion carried unanimously.**

Commissioner Apke expressed his fondness for snow cones and his fellow Commissioners concurred. Commissioner Osgood told staff he thought a 4-year SUP for this business was an appropriate length of time.

**A motion was made by Commissioner Stansell, seconded by Commissioner Page, to approve the SUP for Tiki Hut. The motion carried unanimously.**

3. [Consider a request for variances to the City of Keller Unified Development Code, Article 8, Zoning Districts, Development Standards, Tree Preservation, Section 8.07, Off-Street Parking and Loading Requirements, to allow an attached front facing garage be located in front of the main structure with a total of 240 square-feet of garage door exposure to the street, located on 1.9910-acres of land on the west side of Willis Lane, approximately 2,400-feet northwest of North Tarrant Parkway Willis Lane intersection, being Abstract 457, Tract 5B01, John Edmonds Survey, at 1804 Willis Lane, and zoned SF-36 \(Single Family Residential – 36,000 square-foot lot size minimum\). Joseph Hopkins, owner/applicant. \(UDC-19-0009\)](#)

Planner Ducay gave staff's presentation for item D-3 and D-4 regarding variances for the front-facing garage and fence height requested by Joseph Hopkins. The Applicant was available for questions.

Commissioner Apke noted it would be difficult to design a side-entry or rear-entry garage for the existing home as required by City Code. Commissioner Apke also appreciated the proposed aesthetics since it would be consistent with the home and would improve the overall look of the existing home. He said he had no concern about the front-yard fence being one-foot higher than proposed.

Commissioner Sagar commended the Applicant for seeking and receiving support.

No further discussion was held.

**A motion was made by Commissioner Stansell, seconded by Commissioner Page, to approve the variance request regarding the front-facing garage. The motion carried unanimously.**

4. [Consider a request for a variance to the Unified Development Code, Section 8.11, Fencing Requirements in Residential Zoning Districts, to allow the installation of a six-foot](#)

(6") wrought iron fence in the front yard, located on 1.9910-acres of land on the west side of Willis Lane, approximately 2,400-feet northwest of North Tarrant Parkway and Willis Lane intersection, being Lot 1, Block A, of the Hopkins Addition, at 1804 Willis Lane, and zoned SF-36 (Single Family Residential – 36,000 square-foot lot size minimum). Joseph Hopkins, owner/applicant. (UDC-19-0011)

**A motion was made by Commissioner Stansell, seconded by Commissioner Page, to approve the variance request regarding a 6-foot height fence in the front yard. The motion carried unanimously.**

5. Consider a request for the approval of an amendment to the Tree Preservation Plan to the City of Keller Unified Development Code (UDC), Article 8, Zoning Districts, Development Standards, and Tree Preservation, Section 8.19, Tree and Natural Feature Preservation to allow advanced tree removal and lot grading for residential Lots 17-19, 2-3 Block G; Lots 19-21 & 23, Block D of Marshall Ridge Phase 1 South, a residential development consisting of 47 residential lots and 3 open space lots, located on approximately 25.166 acres of land, on the south side of Ridge Point Parkway, approximately 1,790 feet east of the North Main Street (U.S. HWY 377) and Ridge Point Parkway Intersection, and zoned Planned Development - Single Family Residential-15,000 square foot minimum (PD-SF-15). Meritage Homes of Texas, LLC, owner/applicant. (TB-18-0002).

Planner Smithers gave staff's presentation for additional grading and removal of 62 trees equaling 421-caliper inches for the remaining 9 lots in Marshall Ridge Phase I South. David Auginbaugh from Meritage Homes and Bryan Moody, Engineer from Kimley-Horn were available for questions.

David Auginbaugh from Meritage Homes came forward and explained they have attempted to sell the remaining lots as-is to custom builders who could build on them without additional grading or tree removal but without success. The original infrastructure was put in around 2007. Because of the topography, builders are not interested in the remaining 9 lots. He stated that 36 trees would need to be removed regardless because the pad sites would impede upon the critical root zone. Meritage has maxed out areas to plant trees on site, so they are proposing to upsize trees and pay into the Tree Restoration Fund.

Commissioner Stansell asked if they were also proposing to remove retaining walls.

Mr. Auginbaugh stated that, yes, between lots 19 and 20 the wall needed to be rebuilt. Bryan Moody, Kimley-Horn Engineer, explained that the grey, hatched area on the plan showed which retaining walls needed to be re-built or enlarged. One of the walls did not require removing trees, but the others did.

Commissioner Stansell asked what the drainage impacts would be when lots 2 and 3 were graded.

Mr. Auginbaugh explained that increasing the height of the retaining wall would improve drainage concerns.

Commissioner Stansell asked what that meant for the retaining wall height and how high would the wall be that his neighbor to the east would be looking at.

Mr. Auginbaugh stated that the height of the wall would be 6-7 feet in height. Mr. Auginbaugh went on to say the only way to build a house would be to build one with a walk-out basement and no one was interested in that type.

Commissioner Page pointed out he recently built his home and it had a walk-out basement.

Mr. Auginbaugh said they had approached Toll Brothers, but they were not interested.

Commissioner Stansell recommended adding the wall height on the plans for City Council review. It looked like Lots 18 and 19 will be high and so will the wall between Lots 15 and 16.

Mr. Auginbaugh explained that the wall will be the same height but pushed to the north. The wall on Lot 19 is 8'-10' high.

Commissioner Stansell pointed out that the sidewalk along Marshall Ridge Parkway across from the Elementary School is consistently under water. He asked if the Applicant would be fixing it.

Mr. Auginbaugh said that Meritage was addressing this issue. He also clarified that they would not remove trees from Lot 19 but would on Lot 18

Commissioner Page asked why the applicant was back after having the Tree Preservation Plan approval in 2014?

Mr. Auginbaugh stated that the 9 lots remaining are un-buildable and were inadequately addressed by the 2014 plan.

Commissioner Page asked if that was the result of a lack of due diligence.

Mr. Auginbaugh responded with, "Your words, not mine."

Commissioner Sagar stated she had served on Planning and Zoning in 2014. The original plan that was approved called for a very large number of trees to be removed. She was not fond of the original plan because of the significant tree removal and was not comfortable removing more now. Commissioner Sagar also expressed concerns about the height of the retaining walls and the risks they posed for people and pets and especially small children. She asked the applicant what alternatives he had considered and whether he reconsidered the building pads.

Mr. Auginbaugh stated that Meritage had looked into other products but none are commonly done in this part of the country. Walk-out basements are very unusual.



Commissioner Sagar stated that the topography was highly unusual too, and required other options.

Mr. Auginbaugh stated the topography is common in Keller and that Meritage is not asking for anything other developers haven't been allowed to do.

Commissioner Osgood asked what is the alternative to not building the retaining walls.

Mr. Auginbaugh stated that alternative drainage methods would have to be considered. It would require steeper backyards and less usable space.

Commissioner Apke stated that rather than paying money into the fund, why don't you plant elsewhere in the development?

Mr. Auginbaugh stated Code does not allow for that.

Chairperson Ponder asked the applicant if he was originally involved in the process in 2014?

Mr. Auginbaugh re-affirmed he was not involved in the process originally and had been with Meritage Homes for over a year now.

Chairperson Ponder said he appreciated Mr. Auginbaugh has not been involved originally, but that he could not support removing more trees at this point. There simply seemed to be no justification for the request.

**A motion was made by Commissioner Sagar, seconded by Commissioner Page, to deny the request for Marshall Ridge Phase I South Tree Appeal based on the 2014 approved Tree Preservation Plan. The motion carried unanimously.**

6. [PUBLIC HEARING: Consider a recommendation of amendments to the City of Keller Unified Development Code, adopted by Ordinance No. 1746 dated July 7, 2015, by amending Article 3 - Definitions; Article 8 - Zoning Districts, Development Standards, Tree Preservation, to amend fence requirements; authorizing publication; provide for penalties; and establishing an effective date. City of Keller, applicant. \(UDC-19-0004\)](#)

**A motion was made by Commissioner Stansell, seconded by Commissioner Page, to table the fence amendments. The motion carried unanimously.**

## **E. ADJOURN**

Chairperson Gary Ponder adjourned the meeting at 7:56 p.m.

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Chairperson

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Staff Liaison