



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, August 12, 2019

PRE-MEETING BRIEFING 6:30 P.M.

A. CALL TO ORDER – Chairperson Gary Ponder

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

The following Commissioners were present:

Carey Page

Ralph Osgood

Bob Stevens

Leslie Sager

Paul Alvarado, Alternate (voting)

Staff present included Katasha Smithers, Planner I; Jerald Ducay, Planner I, Matthew Cyr, Planning Technician; Julie Smith, Community Development Director; Tracy Talkington, Police Captain; Chad Bartee, City Engineer.

B. ADMINISTRATIVE COMMENTS

Prior to Staff giving the briefing regarding City Council action, Chairperson Gary Ponder thanked staff and Commissioners for the gifts while he was out sick.

[Briefing regarding City Council Action on Tuesday July 16, 2019, and August 6th, 2019](#)

Planner Smithers informed the Planning and Zoning Commission that City Council on July 16, 2019, approved the 1660 Willis accessory structure (unanimously), approved the SUP for Tiki Hut for four-years to match the other SUP (unanimously?), approved 1675 South Main Street Equipment Share (unanimously), approved the site plan amendment for Chick-fil-a with modifications recommended by Planning and Zoning (unanimously), the fence amendments were tabled by City Council and moved to August 6th. On August 6th the fence amendments were approved (5-1) with modifications to be made by allowing wood posts as well as metal posts.

CDD Smith also mentioned that Commissioner Stevens' and Commissioner Page's recommendations were implemented into the fence amendments.

Commissioner Sagar asked if fence applications will be sent to ZBA in the future.

CDD Smith answered that it will eventually, but because the Commission directed to test this process out first before sending fence applications to ZBA, that provision was not included in the amendments.

Commissioner Stevens asked if concrete was still allowed for the updated fencing amendments.

CDD Smith explained that concrete is allowed only on thoroughfares, not residential fences.

Planner Smithers informed the Planning and Zoning Commission that City Council on August 6, 2019, tabled the Maguire rezoning until August 20, 201, and unanimously approved the Bancroft accessory structure (barn), and the Complete Trailers SUP.

CDD Smith, in relation the Maguire rezoning stated that the Applicants do meet the intent of the FLUP even though proposed zoning is SF-20, because the 28,000 plus square-foot lot cannot be subdivided into two. The 20,000 square-foot lots; are too small for SF-25 and cannot meet the dimensions which is the reason that they went to SF-20. City Council had concerns that the lot could be divided in the future if right-of-way was decreased, but CDD Smith clarified that this is not possible due to the ROW dedication for even just a residential street. It would not have a lot large enough to subdivide.

Commissioner Page asked if the lot was a lot of record and not platted within the City.

CDD Smith answered it was and mentioned that when the Maguire rezoning case came forward to the Planning and Zoning Commission, there were no letters of opposition.

Commissioner Sagar asked if the proposed FLUP had been in place before this application was submitted, would the application have ever come forward.

CDD Smith answered that if the Applicant was insistent on bringing it forward then they could, but staff would have opposed it since it would have violated the FLUP.

Commissioner Sagar asked if City Council understands the potential problems that could ensue by not approving the proposed FLUP.

CDD Smith responded that there were similar points made at the City Council meeting and that Council members were listening intently. CDD Smith explained the importance of the FLUP and the thoroughfare plan not just the Maguire rezone case but all zoning concerns.

Commissioner Sagar stated that the new development by Westlake will have a dramatic impact on traffic particularly on Pearson and Ottinger.

CDD Smith stated that the 50' of ROW may not seem like a significant amount due to the pace of the development on Pearson, but given the development occurring on Keller's northern border, this could change.

Commissioner Stevens asked what will happen if the rezoning application does not get approved.

CDD Smith responded that the applicants will have only one choice which is to replat one lot and still have to dedicate 50' for ROW.

Commissioner Page asked if a lot of record with the county, could the applicant just do a remodel.

Planner Smithers answered, yes but if the Applicant expands the envelope of the building, they will have to plat instead of remodeling.

Chairperson Gary Ponder established that there was no old business for consideration and that with the exception of the minutes, every item on the agenda is a public hearing.

C. DISCUSS AND REVIEW AGENDA ITEMS

Item D (1). Approval of the Minutes

Chairperson Gary Ponder moved onto the minutes and asked if there were any corrections for the July 8th minutes. Commissioner Leslie Sagar noted that the discussion of the prior minutes where it states “potential finds” it should state “potential fines”.

Item D (2). 770 South Main Street SUP (Smoking Axes)

Planner Ducay gave a brief explanation that the applicant is seeking a SUP to operate an indoor entertainment facility an axe-throwing venue. The Applicant plans to sell beer and wine at this venue if they were approved for the SUP.

Chairperson Gary Ponder asked if there were some of these venues locally within the area.

Planner Ducay responded that there are a handful of these types of businesses within the DFW area.

Commissioner Page stated that there is a business like this at Roughcreek Ranch.

Item D (3). 460 Keller Parkway SUP (Cozy Day Spa)

PT Cyr explained that Cozy Day Spa was previously named Terrace Retreat and had gone through the SUP process in August of 2018. PT Cyr further explained that the Spa planned to retain the same services and that the name change is what sparked the SUP process.

Item D (4). Utility Easement UDC Text Amendments (Trees in Utility Easements)

Planner Smithers gave a brief presentation regarding landscaping near or on utility easements.

CDD Smith elaborated that some of the UDC language requires that you can't do any landscaping around utility lines, some language requires landscaping. The language prohibiting planting within five feet of utility lines will remain. CDD Smith further explained that where easements were large enough, landscaping would be required.

Commissioner Sagar asked what the penalties were in regards to not following these policies.

CDD Smith answered that it can be up to two-thousand dollars per day.

Commissioner Osgood asked to clarify five-feet within the utility lines.

CDD Smith answered that it is five-feet all the way around any utility line

Chairperson Ponder asked if this will provide better clarification for these companies.

CDD Smith answered that it would

Commissioner Osgood asked if this will create trees like the one on Southlake Boulevard.

CDD Smith replied that it will not because of the five-foot barrier.

Commissioner Sagar noted the importance of reviewing Landscaping plans.

Commissioner Alvarado asked whether persons removing trees in an easement, were inspected to insure they were removed in the correct way or if they have free reign.

CDD Smith replied that they have to show us everything that they plan on doing in terms of tree removal and preservation.

Commissioner Alvarado asked if that language should be reflected in the UDC.

CDD Smith responded that you must follow all UDC guidelines and that regulation is in the UDC currently.

Commissioner Sagar asked about what happened when trees are damaged.

CDD Smith stated that utility franchises are often contentious, and complicated. CDD Smith noted that you have to plant landscaping trees, and that the utility franchises are challenging that. CDD Smith elaborated that if they are cutting tree roots then that can become a problem depending on the tree.

Commissioner Sagar asked who is responsible for damaged trees and noted that she as the adjacent landowner, is the one responsible for it.

Commissioner Sagar and Page held a brief discussion.

CDD Smith asked if Dan from Public Works was still working with Commissioner Sagar

Commissioner Sagar replied that he was.

Item D (5). Medical UDC Text Amendments

CDD Smith noted that two developers were requesting this change, not staff or City Council. CDD Smith stated that the vision of Town Center is not necessarily medical and focuses more on pedestrian oriented uses and entertainment. CDD Smith elaborated that if this change is allowed the commission should consider requiring a SUP to operate.

Commissioner Page noted that medical is still office.

CDD Smith responded that office under the UDC has a different definition.

Commissioner Page stated that the top use is in the UDC use chart for Town Center "Administrative, Corporate, or Professional Office".

CDD Smith answered that the definition for that use was different under the UDC and does not include medical offices.

Commissioner Page suggested combining all medical uses.

CDD Smith sought clarification and asked if he would prefer to group all medical uses together.

Commissioner Page responded that this was correct and listed all uses to be grouped: medical, dental, chiropractor, minor emergency services and rehabilitation.

CDD Smith asked if rehabilitation included residential.

Commissioner Page stated that it did not include residential.

Chairperson Gary Ponder asked if including medical for Town Center would actually be advantageous to the citizens or just provide them medical services they could already access.

Commissioner Page noted that Council already said yes with an SUP.

CDD Smith answered that you could not have medical in Town Center other than

Commissioner Sagar noted that the request did not come from the Council and that it came from two developers

Chairperson Gary Ponder asked if they had been offered other sites in the city.

CDD Smith answered that they had shell buildings and were considering potential medical tenants.

Commissioner Page asked how much Office space is left in the City.

CDD Smith stated she did not know it was a good question. The bigger question may be how much office was in Town Center.

Commissioner Page noted that it did a disservice to the City if there was an empty building sitting around.

Commissioner Alvarado replied that it did a disservice to the citizens to abandon the vision of Town Center.

Commissioner Page stated that medical uses provided a service to someone.

CDD Smith suggested tabling the item if the commission wanted to delve into the topic more and wanted staff to do more research.

D. ADJOURN

Chairperson Gary Ponder adjourned the Pre-Meeting at 7:09 P.M.

REGULAR MEETING 7:00 P.M.

A. CALL TO ORDER – Chairperson Gary Ponder

Chairperson Gary Ponder called the meeting to order at 7:15 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 one came forward.

D. NEW BUSINESS

1. [Consider approval of the minutes of the Planning and Zoning Meeting on July 22, 2019.](#)

Commissioner Sagar made a motion to approve the minutes with the corrections proffered to staff in the pre-meeting (noted above), seconded by Commissioner Page. The motion carried unanimously.

2. [PUBLIC HEARING: Consider a request for a Specific Use Permit \(SUP\) for Smoking Axes, a proposed axe throwing Indoor Entertainment Facility, located on an approximately 2.995-acre tract of land, on the west side of South Main Street \(U.S. HWY 377\) and approximately 1,700' feet southwest of the intersection of Bear Creek Parkway and South Main Street \(U.S. HWY 377\), being Lot 4, Block A, Bear Creek Plaza Addition, at 770 South Main \(U.S. HWY 377\), Account \(#: 41037405\), and zoned Commercial \(C\). Gary Cox and Carlos Marroquin, Applicants. Bear Creek Plaza Associates, LTD, Property Owner.](#)

Planner Ducay gave a brief presentation, and stated that the City mailed out six letters of notifications and did not receive any letters of opposition.

Gary Cox, the Applicant and Owner, stated how excited he is to be in Keller, and that he wants to make the sport more upscale.

Chairperson Gary Ponder opened the public hearing.

No one came forward.

Commissioner Stevens motioned to close the public hearing, Commissioner Page seconded. The motion carried unanimously.

Commissioner Alvarado asked if they would be serving any food.

Gary Cox replied that they had Double Dave's Pizza and Maria Cucca's down the street and will be catering those foods when necessary.

Commissioner Alvarado noted that he is looking forward to this unique entertainment center opening.

Commissioner Sagar stated that she was not comfortable with the proposed business.

Commissioner Sagar explained that mixing axe-throwing and alcohol concerned her, and especially since the website noted the treatment of anger management.

Commissioner Osgood asked if they had any statistics on injury rates.

Gary Cox answered that he did not across the industry, but the original location only spent about \$1200 per a year. He went on to state common injuries resulted from splinters.

Commissioner Osgood stated that bowling serves wine and beer, just like this proposed business, and he had no objections.

Gary Cox noted that an axe at 6-8 feet per a second, does not move nearly as fast as an arrow at 300 feet per second.

Commissioner Stevens asked if the axes would be rented for use.

Gary Cox replied that they would but customers could also bring in their own axe, just like people in bowling brought their own ball.

Commissioner Page motioned to approve item D (2), Commissioner Stevens seconded. The motion carried (5-1).

3. [PUBLIC HEARING: Consider a request for a Specific Use Permit \(SUP\) for a spa to include cosmetology and Texas-licensed massage therapists, for Cozy Day Spa, located in an approximately 1,250 square-foot lease space, contained in the 10,000 square-foot multi-tenant building, on an approximately .84-acre property, located on the south side of Keller Parkway, approximately 170 feet southwest of the intersection of Keller Parkway and Cindy Street, being Lot 1R, Block A, The Shops at Cindy Addition, zoned R \(Retail\), located at 460 Keller Parkway, Suite B. Bass Commercial Investments, LLC, owner. Zhenji Jin, applicant. \(SUP-19-0008\)](#)

PT Cyr gave a brief presentation and explained that the city mailed out thirty-two letters and had received no letters of opposition.

Zhenji Jin came forward to state that she was from New York and had extensive experience running businesses. It was also stated that the types of services would not change.

Chairperson Gary Ponder opened the public hearing.

No one offered any comment.

Commissioner Page made a motion to close the public hearing, seconded by Commissioner Osgood. The motion carried unanimously.

Commissioner Sagar stated that since the only thing that was changing was the name and the ownership, she had no concerns.

Commissioner Page noted that in 2018, oversaturation of spas was brought up for discussion. Commissioner Page continued to state that since the same services are being as previously, it would not increase the saturation of Spas.

Commissioner Osgood made a motion to approve Item D-3, seconded by Commissioner Stevens. The motion carried unanimously.

4. [PUBLIC HEARING: Consider a recommendation to amend the City of Keller Unified Development Code, adopted by Ordinance No. 1746 dated July 7, 2015, by amending Article 4 - Development Procedures and Requirements for Application Submittals; Article 5 - Subdivision Design and Improvement Requirements, to amend utility easement requirements related to trees in rights-of-way; authorizing publication; provide for penalties; and establishing an effective date. City of Keller, applicant. \(UDC-19-0012\)](#)

Planner Smithers gave a brief presentation regarding item D (4).

Chairperson Gary Ponder opened the public hearing.

No one came forward

Commissioner Sagar made a motion to close the public hearing, seconded by Commissioner Osgood. The motion carried unanimously.

Commissioner Page explained that this amendment allows the city to hold the utility companies accountable.

Planner Smithers agreed to all of this.

Chairperson Gary Ponder asked if this would clarify the language in the UDC

Commissioner Sagar stated that this would clarify the expectations for utility companies.

Commissioner Page made a motion to approve Item D-4, seconded by Commissioner Sagar. The motion carried unanimously.

5. [PUBLIC HEARING: Consider a recommendation to amend the City of Keller Unified Development Code, adopted by Ordinance No. 1746 dated July 7, 2015, by providing revisions to allow medical office use in the Town Center \(TC\) Zoning District with a Specific Use Permit \(SUP\) and modifying, Article 8 - Zoning-Districts, Development Standards, Tree Preservation; authorizing publication; provide for penalties; and establishing an effective date. City of Keller, applicant. \(UDC-19-0013\)](#)

Planner Smithers gave a brief presentation regarding item D (5)

Chairperson Gary Ponder opened the public hearing.

Kevin Macintosh stated that he was a retail developer and owned the building under construction at 1400 Keller Parkway. He continued to state that it was advantageous for medical to be located near 1709 and that potential applicants had been turned away by planning in the past. He opined that Town Center was not what it used to be and has morphed into something different over the years. Medical tenants were stable and credit worthy. This is an asset for the community. Such uses were in strip centers all over the metroplex.

Brian Campbell, a resident of Keller, stepped forward to speak and stated the Town Center definition from the UDC which was "The Town Center district is intended to serve as a mixed use community retail center. Mutually supportive office, civic, cultural, entertainment, and residential uses

are planned to enhance the viability of this mixed use community retail center.” He agreed with the last speaker that Town Center had cannibalized its original vision due to SUPs or variances. Town Center should be preserved with the original intent, and these types of businesses can find other commercial property within the City. He shared that he previously owned a minor emergency clinic, and empathized with the developer, but asked the Commission to reflect and pursue the ideals of the Town Center concept by bringing businesses that fit that vision.

Commissioner Sagar made a motion to close the public hearing, seconded by Commissioner Stevens. The motion carried unanimously.

Commissioner Osgood stated that he believed that Town Center should stay mixed-use and believed in the overall long term vision for the district.

Commissioner Sagar concurred completely with Commissioner Osgood

Commissioner Page stated that he felt strongly both ways on this item. Commissioner Page believed that it was inconsistent to permit minor emergency clinics and not any other medical uses. He added that the pedestrian family friendly area was destroyed by 1709 and did not believe that there is enough information available to make a decision. Commissioner Page continued to state that he would recommend tabling the item when the time comes and that medical does serve a better purpose than being vacant, but that retail would be better tax wise for the city

Commissioner Alvarado suggested removing minor medical emergency from the usage list as well and believed that the city was moving in the right direction when it comes to the Town Center feel. Commissioner Alvarado continued that the use table is limited because of the specific vision for Town Center.

Chairperson Gary Ponder felt strongly about this and expressed concerns over this proposal. He felt the City’s past variances to other planned areas undermined the vision for those areas. He felt the Town Center vision was worth seeing through

Commissioner Sagar agreed with Commissioner Alvarado on removing minor medical from Town Center.

Commissioner Osgood made a motion to deny D (5) as presented, seconded by Commissioner Alvarado. The motion was approved (5-1).

The Commission then directed staff to bring back a proposal to remove minor emergency clinics as SUP-uses in Town Center.

E. ADJOURN

Chairperson Gary Ponder adjourned the meeting at 8:31 P.M.

Chairperson

Staff Liaison