



# 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, September 23, 2019**

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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:

Vernon Stansell

Carey Page

Bob Stevens

Leslie Sager

Paul Alvarado, Alternate (voting)

Bob Apke, Alternate (voting)

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

#### **B. ADMINISTRATIVE COMMENTS**

##### [1. Briefing regarding City Council Action on Tuesday, September 17, 2019](#)

Planner Smithers informed the Planning and Zoning Commission that at the City Council meeting on September 17, 2019, the FLUP was tabled for further discussion and will continued to the public hearing on October 1st. The Utility Easement Amendment was approved unanimously by City Council.

##### [2. Planning and Zoning Meetings](#)

CDD Smith asked whether the commissioners would have any objections to moving to Tuesday nights and whether they would be available. CDD Smith explained that it would be more consistent for citizens and is easier for staff and public noticing if Planning and Zoning met alternating Tuesdays with City Council.

Commissioner Page asked if it would be the second and fourth Tuesday, instead of the second and fourth Monday.

Commissioner Stevens asked when this proposed change would occur.

CDD Smith answered that this change would occur in November when City Council appoints the Commissions and Boards.

She also said she would have to look and see if this required a charter and/or ordinance amendment.

Commissioner Alvarado stated that he would most likely miss the first meeting in November because of previous commitments.

Commissioner Stevens also stated that it might work better for him if this change was backed up to December due to a previous commitments.

Chairperson Ponder asked if there were any other meetings that conflict with the new proposed Planning and Zoning schedule.

CDD Smith replied that the Parks Board met on these days, but is frequently (only three to four times a year) and was not televised. They could meet in other rooms in City Hall at the same time.

Commissioner Stevens asked if there was any benefit of starting these meetings earlier, due to starting late or running out of time for pre-meeting discussions.

Chairperson Ponder answered that he could do a better job of starting the meetings on time, but acknowledged that some discussions are detailed depending on the issue.

CDD Smith noted that City Council moved back their start time from 5:00pm to 4:30pm due to going over on time.

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Commissioner Stevens suggested a start time of 6:15pm.

Commissioner Stansell answered that it would be problematic for people that worked to start at that time.

Chairperson Ponder stated that he liked the adjustment of starting times for heavy agendas, and believed that starting on time could help with these concerns.

Commissioner Sagar assumed that the December 24<sup>th</sup> meeting would be cancelled.

CDD Smith replied, yes, City offices would be closed on Christmas Eve.

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

Item D (1). Approval of the Minutes

Commissioner Page stated that his name was misspelled on page one.

Commissioner Page asked for clarification on a name change triggering a SUP, and asked how that works with a grandfather status.

CDD Smith clarified that a name change triggers a SUP, but the use was what drove grandfather status. CDD Smith continued that this needed to be addressed when the UDC was updated.

Commissioner Page stated that there needed to be verbiage that reflects this.

Commissioner Sagar agreed and stated that there needed to be an asterisk reflecting this.

Commissioner Page asked if there was seventeen medical businesses in Town Center, or not the twenty-five stated in the minutes.

Planner Smithers answered that the correct number was twenty-five.

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Planner Ducay stated that the confusion stemmed from the uses being twenty-five but the percentage being seventeen.

Commissioner Page asked if staff had looked at the amount of retail businesses in Town Center.

Planner Smithers responded that she had not looked at retail.

CDD Smith asked Commissioner Page if he would like staff to research that.

Commissioner Page responded that he would like to know what businesses were in Town Center.

Commissioner Alvarado stated that instead of looking at changing the entire zoning for Town Center the Commission should focus on those businesses on the edge of Town Center.

Chairperson Ponder asked if that portion of the Town Center district was changing in the proposed FLUP.

CDD Smith responded that it would remain Town Center as currently proposed

Item D (2). Keller-Greenway PSE

There were no comments or questions.

Item D (3). 1120 Melody Lane SUP

Planner Ducay explained that the applicant was proposing to build an approximately 2100 square-foot accessory building to store the applicant's classic cars and also have a workshop. The size of the building triggered the SUP process along with the combined accessory buildings already existing surpassing the 50% threshold. Planner Ducay it would also surpass the 15 feet maximum height. The structure will be an average height of 25 feet and 31 feet at its tallest point.

CDD Smith stated that this is the first structure that does not meet the City of Keller's UDC regulations related to building materials (it's proposed to be metal); the applicant is allowed to apply for this, because the Texas Legislation approved a bill that prohibits cities' governing building materials.

Commissioner Alvarado asked if the applicant gave a reason for the structure being 31 feet tall.

Planner Ducay stated that the reason for the height was for storage lofts and car lifts.

Commissioner Alvarado asked if the applicant was running a business.

Planner Ducay responded that he did not believe so, and believed that the applicant was a car collector.

Chairperson Ponder asked if the applicant would be attending.

Planner Ducay responded Ok.

Commissioner Page asked if he had his neighbors support, and if the structure would be located at the back of the lot.

Planner Ducay responded yes to both of Commissioner Page's questions.

CDD Smith stated that the Commission in the past had concerns about larger buildings, and elaborated that the Commission should keep in mind that they have the option to deny a variance if it does not meet the UDC regulations.

Chairperson Ponder stated that he was going to ask that question: could the Commission require larger buildings to be complimentary to the main structure.

CDD Smith replied yes. The variance for a larger building also required identifying the basis for that variance.

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Commissioner Alvarado asked if we needed to change the ordinance since there had been many requests for oversized garages.

CDD Smith responded that yes, in Keller the ordinance allowed variances for these structures.

Commissioner Page stated that he believed the provision was a good thing for the City and believed that variances bring diversity in the aesthetics of structures.

CDD Smith replied that per that philosophy variance could always be granted negating the need for certain aspects of the code. CDD Smith elaborated that Cities historically could to some extent govern what their development looked like. Consequently, a reason should be articulated for a variance.

Commissioner Page responded that the applicant has a hobby that requires this structure, the structure is located in the back, and his neighbors agree with this structure.

Commissioner Alvarado stated that this decision goes back to the variance tree that was given to the Commission earlier this year. Commissioner Alvarado read the variance tree sheet aloud, and stated that most of the variances granted do not follow this sheet.

Commissioner Page stated that a landowner's inability to use their own land within broad guidelines would be considered a hardship.

CDD Smith, observed that democracy's nature creates a tension between too much regulation and not enough.

Commissioner Sagar stated that she has a neighbor that has a junkyard, and that this is not permitted under any ordinance. Commissioner Sagar elaborated that her neighbor could use that philosophy and claim as a hardship. She continued, and asked why this building should be allowed when the building is metal. She explained that storing cars was really a commercial use and was torn on this decision.

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Commissioner Alvarado stated that he favored property owner rights, but was also torn on this decision. He expressed concern over the size of the structure, too.

Chairperson Ponder asked staff to clarify the number of the structures already on the property.

CDD Smith responded that there are two other structures –one currently in violation because it was built without a permit.

Chairperson Ponder asked about tabling the item.

CDD Smith answered that tabling the item was an option.

Chairperson Ponder elaborated that it would be hard to approve a variance if the property was currently in violation.

CDD Smith stated that usually staff does not bring applications forward if there are any other violations, but the applicant was insistent on going through this process.

Item D (4). UDC Brewery Text Amendment

Commissioner Apke asked about the possibility of adding a distillery as discussed in previous discussions.

CDD Smith answered that you may still see that pending the election in November related to alcohol sales.

Commissioner Stevens brought up the possibility of changing several definitions to the amendment, to make it more consistent with existing definitions.

## **D. ADJOURN**

Chairperson Gary Ponder adjourned the Pre-Meeting at 6:57 P.M.

## **REGULAR MEETING 7:00 P.M.**

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## A. CALL TO ORDER – Chairperson Gary Ponder

Chairperson Gary Ponder called the meeting to order at 7:05 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 Commission Meeting on September 9, 2019.](#)

**Commissioner Sagar made a motion to approve item D (1) with corrections as discussed, seconded by Commissioner Page. The motion carried unanimously.**

[2. Consider approval of a Preliminary Site Evaluation for Greenway Keller Addition, a proposed commercial development consisting of two \(2\) lots, on 7.3375 acres of land on the north side of Keller Parkway, between Chandler Road to the east and Keller Smithfield to the west, being tract 3A12 in the J.A. Dunham Survey, Abstract No.424, and zoned as TC \(Town Center\). Greenway-Keller, LP., owner/applicant/developer. Dr Rankin, PLLC engineer. Aj Bedford Group, Inc., Surveying Company, surveyor. Hodges and Associates, architect.](#)

Planner Ducay gave a brief presentation of the Preliminary Site Evaluation and explained that the applicant wanted to develop a multi-tenant, retail-restaurant building in the future.

There were no questions or comments.



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**Commissioner Stansell made a motion to approve Item D (2), seconded by Commissioner Apke. The motion carried unanimously**

3. [PUBLIC HEARING: PUBLIC HEARING: Consider a request for a Specific Use Permit \(SUP\) for an accessory building, proposed to be a 2,100 square-foot accessory garage and workshop to exceed the maximum 15-foot height requirement and size ratio of fifty percent \(50%\) of the main structure, on an approximately 1.244-acre tract of land, located on the south side of Melody Lane, and approximately 1,000 feet east of the intersection of Roanoke Road and Melody Lane, being Lot 7R1, Melody Hills Estates Addition, at 1120 Melody Lane, and zoned Single-Family Residential-36,000 square-foot lot minimum \(SF-36\). Kevin and Marsha Holmes, owners/applicants.](#)

Planner JP Ducay gave a brief presentation regarding item D (3) and explained that the City mailed out fifteen letters, of notifications to surrounding properties and had not received any responses from the public.

**Chairperson Gary Ponder opened the public hearing.**

No one offered any comment.

**Commissioner Stansell made a motion to close the public hearing, seconded by Commissioner Alvarado. The motion carried unanimously.**

Commissioner Alvarado stated his concerns about the project and mentioned that he felt the project was leaning more towards a commercial project. He also mentioned that the property was already in violation due to an unpermitted structure constructed on the property. Commissioner Alvarado continued that this building was entirely metal and did not conform to the UDC standards.

Commissioner Apke stated his concerns based on the metal sign, not being complimentary to the main structure, and the significant height of the structure. He elaborated that the height and the materials of the structure would not be what the City wanted to see.

Commissioner Stevens asked what the size of the structure in the back left hand corner was.

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Planner Ducay answered that it was roughly around three-hundred square-feet.

Commissioner Stevens asked if the applicant would be driving over grass to get to the proposed structure.

Planner Ducay directed Commissioner Stevens to the applicant.

Kevin Holmes, the applicant, answered that he did plan on paving an access road to the proposed structure. He also stated that the structure pointed out in the back left hand corner used to be the community pool. He said that the paving would be nice, and there were some trees that would have to go. He elaborated that the patio on the main structure was already twenty-eight to thirty-feet high, and the proposed structure would be around that height.

Commissioner Sagar asked the applicant if he was a car dealer of any kind.

Kevin Holmes replied that he was just a hobbyist.

Commissioner Sagar asked where he was storing his cars currently.

Kevin Holmes answered that he stored them under a car port that was in the process of being removed. He added that they were being restored for his two sons.

Commissioner Sagar stated that going from three-hundred square-feet to 2100 square-feet was a big jump.

Kevin Holmes responded that he had no room to work on the cars, and that he was laying on gravel to work on them.

Commissioner Sagar stated that her concerns were the size and the exterior being all metal. She stated that historically metal buildings were only allowed if used for agricultural uses. Commissioner Sagar elaborated that typically accessory structures were compatible with the main structure. She also raised concerns about the use of the structure along with the height.

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Kevin Holmes answered that he did not plan on selling any cars.

Commissioner Sagar expressed concern over an existing structure that was currently in violation of the City code.

Kevin Holmes responded that he was removing it the following day.

Commissioner Sagar answered that she appreciated his willingness to remove it but as of the time of the Commission meeting it is not in compliance.

Marsha Holmes, the applicant's wife, stated that the garage was what he planned to store cars in and the woodshop was on the other side. The garage was where the car lift will be; the workshop is where he would be doing woodworking. She continued that the exterior of the proposed structure would match the back half of the main structure. This will be done by placing cedar accents on the proposed structure.

Commissioner Page asked if they would have more than two cars that would be worked on.

Kevin Holmes stated that currently he did the maintenance for his two cars that his family drives every day, and that he also had the two older cars that are in the process of being restored.

Commissioner Page asked if he had all the right technology to repair his cars.

Kevin Holmes stated that he did not need new, computerized tools for his older cars.

Commissioner Page asked if he did not need the car lift, would he be compliant with the height requirement. He also asked if he had thought of a pit.

Kevin Holmes responded that he did think of that, but did not want his kids exposed to that kind of danger. He continued that they needed to store a conversion van that was eight-feet tall and would have trouble getting it in an eight-foot tall garage.

Commissioner Page asked the applicant if he would consider adjusting the peak down and find alternative ways to get underneath his cars to restore them.

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Kevin Holmes said that he could discuss this option with the builder.

Commissioner Page asked if he knew how much the peak height could be brought down to.

Kevin Holmes responded that he would have to discuss this with his builder first, but if he had to guess, that three to four feet might be an option.

Commissioner Page stated that if he brought the peak of the structure down, it would complement the main structure and make it more harmonious. Commissioner Page continued that the masonry requirements according to the City code needs to be 80 percent.

Kevin Holmes responded that he could do the front in masonry materials to try and meet that requirement.

Commissioner Page asked the applicant if they were willing to have this item tabled and come back with a different plan to meet the UDC requirements.

Kevin Holmes stated that he believed he could do that.

Commissioner Stansell stated that he would also like to confirm that the car port had been removed before coming back and considering the variance request.

Chairperson Ponder stated that he believed tabling the item was a good idea, but also reiterated that the Commission was very sympathetic towards property owner rights. He wanted to work with the applicant to achieve a mutually beneficial solution. If tabled, this gave time to the applicant to work with staff and make the necessary adjustments to meet code.

**Commissioner Page made a motion to table Item D (3) to October 14, 2019, seconded by Commissioner Stansell. The motion carried unanimously.**

4. [Consider a recommendation to amend the City of Keller's Unified Development Code, adopted by Ordinance No. 1746 dated July 7, 2015, by providing provisions for a "brewery" land use and modifying, Article Three - Definitions and Article Eight – Zoning/Districts; providing penalties; providing a severability clause; providing a conflicting of ordinances clause; authorizing publication; and establishing an effective date. City of Keller, applicant. \(UDC-19-0017\)](#)

Planner Smithers gave a brief presentation regarding Item D (4) and she stated the City had not received any responses from the public.

**Chairperson Gary Ponder opened the public hearing.**

No one offered any comment.

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

Commissioner Stevens suggested changing "Brewery (brewing company)" to "Brewery with Retail Sales", and changing "Brewery (with entertainment)" to just "Brewery with Entertainment" Commissioner Stevens also suggested changing "Brewery with Retail Sales (on or off premise)" to "Brewery with Retail Sales on or off premise" and changing "Brewery with Entertainment (inside or outside)" to "Brewery with Entertainment Inside or Outside".

**Commissioner Stevens made a motion to approve Item D-4 as modified, seconded by Commissioner Page. The motion carried unanimously.**

## **E. ADJOURN**

**Chairperson Gary Ponder adjourned the meeting at 8:00 P.M.**

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Chairperson

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Staff Liaison

DRAFT