



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 8, 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, Alternate
Paul Alvarado, Alternate

Commissioner Vernon Stansell was absent. Staff present included Katasha Smithers, Planner I; Jerald Ducay, Planner I, Scott Bradburn, Planner I; Julie Smith, Community Development Director; Jerard Lemoine, Police Lieutenant.

B. ADMINISTRATIVE COMMENTS

1. [Briefing regarding City Council action on Tuesday, April 2, 2019.](#)

Planner Smithers discussed the outcome from the April 2, 2019, City Council meeting.

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

Planner Smithers discussed the DRC projects and long-term projects.

C. WORK SESSION

1. Discussion Regarding the Tree Ordinance

Staff was asked to review and possibly recommend changes to the Tree Ordinance, because the Commission had some concern that the existing ordinance may not be adequately protecting trees. Though staff would be researching the issues related to the Tree Ordinance and providing a detailed report at a later date, staff asked the Commission for feedback on the aspect of allowing "upsizing" to count toward tree mitigation.

CDD Smith discussed the ramifications of upsizing. Upsizing permits developers to plant larger-than-required trees and use the increased size (in caliper inches) to count toward

mitigation. She explained that there was no real advantage to planting larger trees, because the trauma to large trees caused by transplanting severely retards the establishment and growth of the tree. If the goal is assure maintenance and sustainability of the existing canopy, then upsizing defeats this purpose. It may be better to instead require payment into the Tree Restoration Fund, because the overall number of trees would remain the same. However, the City of Keller cannot use money from the tree Restoration Fund to irrigate the new trees that are planted. Irrigation must be funded separately through the General Fund.

Commissioner Page inquired about utilizing the Restroation Fund for irrigation.

CDD Smith shared that the City Council, at their last meeting, asked the same question. There is apparently a State law that prohibits the City from utilizing the fund for irrigation purposes. Cody Maberry, Director of Community Services, is looking into the law to confirm the limitations and also to possibly utilize the fund for other related items (mulch, etc.) for new trees in the future.

Commissioner Alvarado asked staff if the City could create another fund regarding irrigation.

CDD Smith said that unfortunately not. We can buy and replace the trees through the Restoration Fund at \$150 per caliper inch. However, with respect to the Post Oak stands, Post Oaks cannot be transplanted; other oaks and species transplant well.

Commissioner Osgood spoke in support of developing a more restrictive ordinance in place for trees.

CDD Smith said that she and Scott would be providing some potential amendments to the Tree Ordinance. Additionally, staff requested commissioners send emails regarding any potential changes they would like to make.

CDD Smith spoke in response to Commissioner Alvarado inquiry from the previous Commission meeting in terms of whether a performance bond could be used rather than an escrow account to cover tree mitigation costs. Because performance bonds are difficult to collect, she explained that the current policy was adopted a couple of years ago to require full payment in advance.

Commissioner Sagar commented that the Site Plan approval has not historically taken topography into account with respect to tree protection i.e. Gean Estates, and that this oversight was problematic with respect to tree loss as well as soil erosion and drainage.

Commissioner Page added that the City has not done their due diligence regarding having the developer change the Site Plan to balance the topography of the site with the removal of trees.

CDD Smith stated that through staff cannot develop nor design the site. Staff will work to

make sure these concerns are addressed in the future.

Commissioner Sagar stated when they come forward with a plan that indicates a flat site for a site with significant topography, it truly creates an issue.

Commissioner Page indicated the challenge caused by the terrain is a major part of the problem. Historically, when a site is graded, the trees would be removed no matter what.

Commissioner Sagar stated not to look at the pictures but to look at the site itself.

CDD Smith stated that topography should be considered during the zoning change request process.

Chairperson Gary Ponder stated he was looking forward to staff's proposal for amending the Tree Ordinance in the near future.

D. DISCUSS AND REVIEW AGENDA ITEMS

Discussion held regarding C-1 (Minutes):

The Commissioners stated that there were no issues with 3/25/2019 minutes.

Discussion held regarding C-2 (SUP for Accessory Structure):

Planner Bradburn stated that the applicant lived at 608 Castleman Court and was requesting an accessory structure with additional variances for size, a metal roof, garage door exposure to the street, and height.

Commissioner Osgood asked regarding the limitation of size and how this came about.

CDD Smith spoke regarding the differences between accessory dwelling units and accessory structures. Accessory dwelling units must be on a site of 1.5 acres or more and are permitted by an SUP only. The size of accessory dwelling units recently average more than 1,800 square feet - the same as two homes on one lot. This trend increases density without rezoning, platting or subdividing. Discussion will need to be held in the future to address with both the Commission and Council.

Commissioner Sagar expressed concern of the possible future use of those structures (short-term rentals like Airbnb, etc.).

Discussion held regarding C-3 (Fence Variance):

Planner Ducay discussed the differences between the approved fence permit and what was actually constructed on site. Also, staff indicated to the Commission that the applicant and/or developer will not be in attendance.

Commissioner Sagar suggested the Commission may want to table item C-3 until the

owner could attend.

Commissioner Alvarado stated that people are asking for forgiveness after building something not approved.

Commissioner Reid stated we need to enforce our City standards or those standards become meaningless over time.

Commissioner Sagar stated maybe they misinterpreted the code, but she would like these questions answered by the applicant and/or developer.

No further discussion was held pertaining to the fence.

Discussion held regarding C-4 (Fence Variance):

Chairperson Gary Ponder indicated the time and just asked the Commissioners if they had any questions for staff.

CDD Smith stated that Alonzo Linan, Director of Public Works, had no concern about the proposed location of the fence along the right-of-way.

E. ADJOURN

Chairperson Gary Ponder adjourned the Pre-Meeting at 7:01 P.M.

REGULAR MEETING 7:00 P.M.

A. CALL TO ORDER – Chairperson Gary Ponder

Chairperson Gary Ponder called the meeting to order at 7:06 P.M.

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

B. PERSONS TO BE HEARD

No public comments were received.

C. NEW BUSINESS

1. [Consider approval of the minutes for the meeting from March 25, 2019.](#)
A motion was made by Commissioner Leslie Sagar, seconded by Commissioner Ralph Osgood, to approve the Minutes for the meeting from March 25, 2019. The motion carried unanimously.
2. [PUBLIC HEARING: Consider a request for a Specific Use Permit \(SUP\) of a proposed 1,872 square-foot accessory structure on a 1.94-acre-lot on the east side of Castleman](#)

Court, approximately 466 feet northeast from the intersection of Johnson Road and Castleman Court, being Moreland Manor Addition, Block 1, Tract 3, Volume 371-388, Pages 679-680, at 608 Castleman Court (Account # 01812688) zoned (SF-36) Single Family Residential – 36,000 square-foot lot minimum, Peter & Jennifer Phoenix, owner/applicant. (SUP-19-0006).

Planner Bradburn gave staff's presentation for the SUP for 608 Castleman Court. The applicants, Peter and Jennifer Phoenix were available to answer any questions.

Mr. Phoenix described the letters he and his wife sent out to the neighbors and that the comments received by the neighbors were in support.

Chairperson Gary Ponder opened the public hearing.

No public comments were received.

A motion was made by Commissioner Leslie Sagar, seconded by Vice Chairperson Dave Reid, to close the public hearing. The motion carried unanimously.

Discussion was held regarding the neighborhood support and if the neighbors saw the elevations of the structure that the Commission had.

Mr. Phoenix stated that they showed the same images to the neighbors on how the accessory structure would look.

Commissioner Osgood and Commissioner Alvarado indicated concerns regarding garage door sizes that face the street. Commissioner Alvarado also asked in regards to see if neighbors knew about the metal roof.

The applicant again indicated that, yes, the neighbors knew and had no objections.

Commissioner Sagar expressed her appreciation to the Owners for reaching out to their neighbors and getting their support. Chairperson Ponder also thanked the owners for building a structure to enclose the R.V.

No further discussion was held.

A motion was made by Commissioner Carey Page, seconded by Commissioner Bob Stevens, to approve the SUP for the accessory structure. The motion carried unanimously.

3. 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)

Planner Ducay gave staff's presentation regarding the fence variance to include the combined materials of wrought-iron with cedar pickets. Neither owner or developer attended the meeting for questions.

Chairperson Gary Ponder asked why applicant was not in attendance.

Planner Ducay stated that Owner was unavailable, because he was out of town.

Commissioner Osgood asked if it had just been a cedar fence, staff would have approved?

Planner Ducay stated, yes, because it would have been what was permitted.

Commissioner Stevens asked who applied for the fence permit and variance.

Planner Ducay stated the developer had applied for both the fence permit and variance request.

Commissioner Stevens asked if the developer would be responsible for changing the fence so that it met code.

CDD Smith stated it would be the owner, the owner may have a civil issue then with the developer.

Commissioner Sagar asked if the applicant did both materials would they need to have a variance.

Planner Ducay stated yes.

Commissioner Reid spoke in regards to past issues when multiple parties were involved (owner, developers, contractors) and can create awkward situations.

CDD Smith stated that the owner or a contractor should be applying. There can be a disconnect between developer and owner, etc.

Commissioner Page spoke regarding the attractiveness of the materials but stated he was disappointed that the owner and/or developer who built the fence was not here to vet questions.

Chairperson Gary Ponder had questions for the applicant to answer, too.

Commissioner Stevens and Commissioner Page indicated how many fences in the past

we approved by variance with the same materials.

Commissioner Sagar suggested to table the item to April 22, 2019, in the hopes that the owner and/or developer would attend.

A motion was made by Commissioner Leslie Sagar, seconded by Commissioner Carey Page, to table the fence materials to April 22, 2019, due to the owner and/or developer not in attendance to answer questions by the Commission. 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 a six-foot \(6'\) privacy fence to reduce the build line on the side of the property from 50 feet to 34 feet located on 0.99-acres, on the east side of Roanoke Road, approximately 51 feet from the intersection of Roanoke Road and Melissa Drive, being Lot 1, Block 3, Melody Hills Estates, at 1104 Melissa Drive and zoned \(SF-36\) Single-Family Residential - 36,000 square-foot lot size minimum. Wesley Dede, Owner. \(UDC-19-0006\)](#)

Planner Bradburn gave staff's presentation.

Wesley Dade, the applicant, added that he would adjust the fence placement a bit to avoid disruption of trees.

Commissioner Page asked Scott to reiterate the information in the UDC regarding the corner lot fence requirements.

Planner Bradburn stated Section 8.11 to the Commissioners as followed:

The location of fences for double frontage lots or corner lots adjacent to a street shall be in accordance with the building setback line as shown on the final plat. If a property is not platted, the location of fences shall comply with the building setback requirements of the zoning district that the property is located in. The distance may be reduced to eight feet (8') from the property line if the fence is constructed of ornamental metal, tubular steel, or similar material with live screening.

Commissioner Reid spoke regarding whether there were any issues for visibility on the corner lot. Commissioner Reid also asked staff to clarify comments regarding topography.

Planner Bradburn indicated that the proposed fence would not cause a visibility issue, and because the topography slopes, the fence would be higher in the rear of the lot on higher ground.

Commissioner Stevens spoke regarding the distance from the current location to the new location.

CDD Smith stated that it would be closer to the 50-foot build line instead of the property line.

No further discussion was held.

A motion was made by Commissioner Bob Stevens, seconded by Commissioner Carey Page, to approve the fence variance regarding placement. The motion carried unanimously.

D. ADJOURN

Chairperson Gary Ponder adjourned the meeting at 7:40 P.M.

Chairperson

Staff Liaison