



# 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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**Tuesday, December 10, 2019**

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#### **PRE-MEETING BRIEFING 5:30 P.M.**

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

Chairperson Gary Ponder called the Pre-Meeting Briefing to order at 5:30 P.M.

The following Commissioners were present:

Ralph Osgood, Vice Chairperson

Leslie Sagar

Tom Thompson

Paul Alvarado

Bob Apke

Bob Stevens

Phillip Maxwell, Alternate (Non-voting)

Staff present included Katasha Smithers, Planner I; Matthew Cyr, Planner I; Matt Butler, City Attorney; Julie Smith, Community Development Director (CDD); Alonzo Linan, Public Works Director (PWD); and Tracy Talkington, Police Captain.

**Disregard Roll Call below, Phillip Maxwell and Gary Ponder were present.**

**PRESENT:** 5 - Leslie Sagar, Bob Stevens, Ralph Osgood, Paul Alvarado and Robert Apke

##### **B. WORK SESSION**

Chairperson Ponder welcomed the new Commissioners. He also explained that Alternate Commissioners were invited to ask questions and participate in discussions.

CDD Smith stated that Alternates are encouraged to come to all the meetings, so the Alternate is aware of previous discussions when they do step in for an absent Commissioner.

1. [Introduction to the CIAC process.](#)

PWD Linan introduced himself and congratulated the Commissioners for being appointed.

PWD Linan stated that the goal of the CIAC discussion was to give a brief outline of the document that was given to the Commission. He also stated that they will be given a presentation and will be given the ability to take action in January.

PWD Linan explained that the role of the CIAC was to review the impact fees that are collected across the City for new development. He explained that the last time this was updated was in 2015; they will need to be updated in 2020.

PWD Linan stated that the plan determined that to accommodate growth, new facilities such as water, wastewater, and roadways would need to be constructed. PWD Linan reiterated that growth does pay for itself, so this money is mainly set aside for new development.

PWD Linan mentioned the Texas Local Government Code and stated that this was where the legislation supporting impact fees is housed. PWD Linan stated that in section 395.058, it discussed the responsibilities of the CIAC and how the CIAC is composed.

PWD Linan read section 395.058 subsection (C) which described the CIAC's responsibilities. He also reiterated that the Capital Improvements Plan is not to be confused with the City Capital Improvements Plan and stated the differences between these two plans.

PWD Linan stated that the document presented to the CIAC was broken down into three sections. The first few pages are the background that included the impact fees, the overall plans, and the projected growth.

Commissioner Sagar stated that she had not received the document provided.

CDD Smith stated that there is no consideration for this report tonight, but staff would ensure that the Commission did receive the document. CDD Smith reiterated that the CIAC will vote on this on January 14th. If they had any questions, she recommended they email PWD Linan so that he can come prepared with answers.

PWD Linan stated that the goal was to make sure the CIAC understood what was in the report and to answer any questions that they might have.

PWD Linan pointed out that Johnson Road was the dividing line for the difference in the calculation of impact fees. PWD Linan explained that areas north of Johnson Road had a different impact fee than areas south of Johnson Road. It was determined that the transportation needs north of Johnson Road differed from the transportation needs south of Johnson Road.

PWD Linan continued giving a general layout of the report and stated that he would give a more detailed presentation in January.

Chairperson Ponder thanked PWD Linan for his work on this over the last year and stated that it had been a continuous process to get the CIAC report to where it was currently. Chairperson Ponder asked if there was a time period for the CIAC to review the document before asking questions of staff.

PWD Linan answered that they will try to give the presentation to the CIAC a month in advance.

Commissioner Thompson asked if there will be any further guidance from staff.

PWD Linan answered that staff is available for any guidance requested.

CDD Smith stated that PWD Linan will do a fairly extensive presentation that should provide more information provided to the CIAC.

PWD Linan stated that the presentation would essentially point out the assumptions, where they actually are, the amount of money collected, and where this money is being spent.

Commissioner Sagar stated that the last impact fee study was done in 2014 and adopted in 2015. She continued that the impact fee study needed to be updated every five years and they are approaching that soon. Commissioner Sagar stated that staff brings the Committee the semi-annual reports, but that has been difficult due to staff turnover.

CDD Smith responded that because the annual budget schedule is based on a fiscal calendar, update, can't be done until year-end budget is complete.

Commissioner Sagar stated that usually there are semi-annual reports and advised the new Commissioners to lookup the Texas Local Government Code Chapter 395. She continued it would give them a better understanding of the Capital Improvement Program and the role of the CIAC.

PWD Linan responded that when they send out the presentation, they will include Chapter 395 of the Texas Local Government Code as well.

Chairperson Ponder stated that these were good questions and asked if there were any other questions before moving on.

2. [Planning and Zoning Ethics 101 with Matt Butler, City Attorney.](#)

Matt Butler gave a brief introduction of himself to the Commission. Matt Butler explained that he would go over the responsibilities of the Commission, sunshine laws, ethics, and general procedures on public hearings.

Matt Butler stated that the role of the Commission was to be the recommending body for zoning changes, plats, any changes to the comprehensive plan, amendments to the UDC, and also serving as the CIAC. He also stated that the Commission was an advisory board, and for zoning- related issues by State law required that a public hearings be held.

Matt Butler stated that there were certain publication requirements by State law that Staff does handle. He continued that at the public hearing the evidence would be heard, and the Commission would make a recommendation to the City Council.

Matt Butler reiterated that City Council could act on a zoning change until it went through the Planning and Zoning Commission.

Matt Butler recommended the Commission consider these following factors into their decisions for zoning related issues: congestion in the streets, safety, promotion of health

and the general welfare, adequate light and air, prevention of overcrowding of land, avoidance of undue concentration of population, or facilitate the adequate provision of public facilities.

CDD Smith stated that there was a proposed zoning change for this evening and in the staff report the UDC specifically laid out some of those factors that Matt Butler alluded to. CDD Smith continued that she had asked Matt Butler to go over those factors specifically, so that the Commission could articulate the basis for their recommendations for City Council.

Matt Butler responded that this was a great example and reiterated that staff would put these staff reports together for the Commission even if it was not a zoning change request. He continued that staff will lay out what the UDC states for each individual case.

Matt Butler stated that all zoning change requests must comply with the Future Land Use Plan (FLUP) and is a State Law requirement. He stated occasionally that there are zoning challenges, where people do question the consistency of the zoning change with the FLUP. If this is the case, then the challenge does void the zoning change. Matt Butler stated for tonight's zoning change, staff's opinion was that it did comply with the FLUP.

Matt Butler stated that it was important to know that the FLUP was not zoning, and was not an entitlement to property. If a person came in trying to change their property to a different zoning district that complied with the FLUP, the Commission does still have the ability to deny the request. Matt Butler stated that complying with the FLUP is just one of the factors when reviewing zoning change requests.

CDD Smith responded that complying with the FLUP is a must as Matt Butler stated before.

Chairperson Ponder asked if that was a State requirement.

Matt Butler responded this is correct.

CDD Smith stated that what you would most likely see was someone seeking to amend the Future Land Use Plan. CDD Smith also stated that the title of this FLUP

can be misleading, since it does have "Land Use" and can imply zoning in this document.

Chairperson Ponder asked if an application does not meet the comprehensive plan, would staff discuss that with the applicant.

CDD Smith responded yes, they could seek an amendment to the FLUP through P&Z and City Council. CDD Smith continued that if it did not meet the FLUP, it would first have to move forward as an amendment to the FLUP then, if successful first, they would bring the zoning change request forward.

Matt Butler confirmed that you would first review an amendment to the FLUP and depending on your action, you would see the zoning change request follow.

CDD Smith stated that when you amend the FLUP you would live with that, no matter what zoning may or may not come forward that could cause more complex problems in the future.

Commissioner Thompson stated that he had served on the Planning and Zoning Commission in Flower Mound for ten years until 1998. During that time, the City was going through massive growth. Commissioner Thompson continued that when the amendment to the comprehensive plan came first, the conversations with the applicants could take a different shape and bring you something different than the original conversation. This can be complex because what you have voted and said was on the record.

Matt Butler responded that some of things that we like to get on record when discussing a potential amendment to the FLUP are what changes in the area have occurred, and what in the area warrants the proposed change to the FLUP.

Matt Butler moved onto actions that Planning and Zoning could take in response to zoning change requests. He reiterated that Planning and Zoning is an advisory board, and went over the proper procedures for motions.

Matt Butler stated that for straight zoning applications, the applicant would pick a base zoning district and all the rules of that base zoning district would apply.

CDD Smith responded that with the application for tonight, if granted the zoning change, they would still need to seek variances to the lot width because the proposed width was narrower than the base zoning minimum due to the pie-shaped lots around the cul-de-sacs.

Matt Butler stated that there are Planned Development Districts allow Planning and Zoning and Council to have more decision authority on what the development would look like. When those applications are turned in, they include concept plans and if the application is approved, then those concept plans are locked in with that PD. Matt Butler continued that this allows more conditions to be instilled, such as building materials and infrastructure considerations.

Commissioner Thompson responded that it could hurt you later on if conditions change.

Matt Butler responded that this was correct and if someone wanted to change their concept plan, then they would have to go through the zoning change process again.

CDD Smith stated that a Planned Development allowed you to do things that your zoning ordinance otherwise would not let you do. CDD Smith continued that this is usually for a unique or special project that your base zoning district otherwise would not allow.

Matt Butler moved on to Specific Use Permits (SUP). He stated that they were considered zoning changes and would be subjected to the normal public hearing requirements. Matt Butler read from the UDC what the purpose of a SUP is.

Matt Butler reiterated that Julie would put in the staff reports all the factors that should be considered when reviewing a SUP application.

CDD Smith stated that Keller tended to use SUPs more than some other cities and staff has been working to try to fix some of those issues with direction from the Commission and Council.

Matt Butler stated that there were use charts for each zoning district and it would tell you the allowable uses in that district. If a use is not in the use chart, then it was not permissible.

Matt Butler asked if there were some uses that state PD for Planned Development.

Planner Smithers responded that there were very few instances.

Matt Butler moved onto plats and stated that if the plat met all UDC requirements, then the Commission must approve the plat according to State Law. If the Commission didn't approve a plat that met all the UDC requirements, then it would place the City at risk for exposure.

CDD Smith stated that plats trumped municipal ordinances. If there were notes on a plat that conflicted with the ordinances, the notes had to be followed unless the applicant amended the plat to reflect current City ordinances. CDD Smith also stated by way of example that a plat submitted recently stated this specific lot could never be subdivided, which was not an enforceable note.

Matt Butler stated that if a plat was asking for a variance, then you were not required to approve it and the Commission had the discretion to deny it. He reiterated that staff would provide all the special conditions in the memo that should be considered when reviewing the application.

CDD Smith reminded the Commission of the variance tree that described the decision steps the Commission should take when looking at each application.

CDD Smith asked if Matt Butler could go through that variance tree with them, since variances were so narrow and had less discretion when reviewing the application.



Matt Butler read the variance tree and briefly went through each consideration.

Matt Butler moved onto what constituted a “public meeting” and stated that Commissioners cannot deliberate outside of the Planning and Zoning meeting. He read the definition of “meeting.” Matt Butler stated that his firm tells all their clients that you want to avoid the perception of impropriety, and the Commission should try to avoid mingling in groups of two or three members to avoid the perception of a meeting.

CDD Smith stated that if the Commission was going to meet outside a publicly-noticed meetings, whether it was to meet the new police chief or another instance, let staff know so they could post a public hearing notice and avoid any improprieties.

Matt Butler moved onto the Public Information Act and stated that as a public official, don't put anything in writing that you don't want the world to know because it would be considered public information. This included any information on your personal devices that relates to City of Keller business.

CDD Smith stated that staff was frequently required to turn over such information from their phone texts to emails. The best way to discuss agenda items with staff would be over the phone or in person rather than via texts, so they wouldn't have turn their phones over if Public Information was requested.

Matt Butler recommended that the Commission communicate through their official City of Keller email and not their personal emails.

Matt Butler moved onto open meeting violations. He discussed walking quorums and read the new law to the Commission.

CDD Smith stated that this new law was in reference to the Daisy Chain for instance, one member emails another and it's then forwarded to another until you've created what appears to be a meeting.

Matt Butler described conflicts of interest and stated that if you thought you had a conflict of interest, to contact staff so that staff could go through that evaluation with you. Matt Butler continued by reading the State Law referencing conflict of interest.

CDD Smith stated that this has happened here and the Commissioners were concerned about the perception as well as the legality.

Matt Butler reiterated the perception of impropriety and moved onto improper influence. He stated that this was pretty simple: you could not accept a benefit for consideration over a Commission decision. Matt Butler stated that this was considered bribery.

Matt Butler stated that the Commission could not accept gifts from people that lived in Keller, and stated that token gifts were the exception.

CDD Smith stated that the Commission should be careful of accepting gift cards or anything of that nature.

Matt Butler went over the Public Hearing procedures and recommended that deliberation occur right after the motion had been seconded.

Matt Butler went over recommended discussion topics for each application and also gave recommendations for effective meetings. He also emphasized respect and decorum.

CDD Smith stated that people do need to be respectful when giving their opinion and pointed out that the Commission can demand that.

Commissioner Thompson stated that the way that he had dealt with that was to state his concern to the Chairperson.

Commissioner Alvarado stated that the Commission should try to keep people speaking directly to the Commission and not to the crowd.

CDD Smith responded that she agreed; they should not permit people to turn around to face the audience but instead keep the comments directed at the Commission.

Matt Butler stated that he had seen many meetings devolve quickly, primarily from governing bodies that do not have good procedures in place. He stated that once people start yelling from the crowd, it devolves rapidly.

Commissioner Sagar stated that people watching the meeting on TV cannot hear what people say from the audience.

Matt Butler responded that this was correct and was a good point.

Matt Butler continued discussing effective meetings and brought up asking questions that contribute to the Planning and Zoning process.

Chairperson Ponder asked Matt Butler if this meant asking questions related to the application.

Matt Butler responded this is correct.

Chairperson Ponder thanked Matt Butler for his presentation and asked if the Commission had any questions. There were no additional questions.

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

### **D (1) Approval of the Minutes**

Commissioner Alvarado stated he sent corrections to Planner Smithers.

Planner Smithers responded that she had updated the minutes to reflect those changes.

Commissioner Thompson asked Chairperson Ponder if he would like for him to recuse himself from the minutes since he was not present at that meeting.

Chairperson Ponder responded, "Yes, you may do that."

#### D (2) Keller-Smithfield Zoning Change

Planner Cyr stated that the applicant was seeking a zoning change for 1085 Keller Smithfield, from Single-Family 36,000 square-foot lots or greater (SF-36) to Single-Family 25,000 square-foot lots or greater (SF-25). The applicant submitted a concept plan for a residential subdivision consisting of seven lots incorporating a cul-de-sac.

CDD Smith stated that four of those lots are irregular, and would have to seek a variance because they do not meet the minimum width threshold of 120' along the front of the lot.

Commissioner Thompson asked if this was for the purpose of public safety.

CDD Smith responded that in order to get seven lots they would need a cul-de-sac, so that they would only have one access from Village Trail. This did support public safety by reducing street cuts for individual lots.

CDD Smith stated that the proposed zoning changes matches the FLUP and the zoning to the east and south. This and the size of the parcel meant it was not considered spot zoning.

Commissioner Alvarado asked about the number of letters for supermajority.

CDD Smith responded that the number of letters do not trigger supermajority, but rather the amount of land within 200' in opposition. She stated that once 20% of the land was opposed then a supermajority was triggered. Planning and Zoning was not subject to the supermajority rule, but Council was.

Planner Cyr stated that the amount of land in opposition stood at 59.50%.

CDD Smith stated that staff had received fifteen signatures in opposition and none

in support.

Chairperson Ponder asked if these were immediate residents or if there was a map displaying this.

CDD Smith responded that there was a map and it would be in the presentation.

CDD Smith stated that staff had received a petition with thirteen signatures and six letters all in opposition. She clarified that the total amount of signatures was fifteen, because there were four people that signed the petition and also sent in letters.

Commissioner Thompson asked if those were included in the packet.

CDD Smith responded that staff received the additional signatures after the Planning and Zoning packet was sent out.

Commissioner Apke asked if most of the opposition letters were within the 300-foot buffer.

CDD Smith stated that the majority of opposition are within 200 feet and 300 feet.

Commissioner Sagar asked if they could provide copies of the opposition letters.

CDD Smith responded yes, they could. (Copies were distributed to Commissioners during the meeting.)

Commissioner Apke asked about the drainage plans that were submitted.

Chad Bartee, the City Engineer, responded that the plans submitted met all the requirements but were very preliminary.

Commissioner Alvarado asked about the right-of-way or something along those lines in comparison to another cul-de-sac that was further south on Keller-Smithfield.

Chad Bartee responded that this was in reference to right-of-way on Village Trail and the ability to accommodate a 10-foot wide trail.

Commissioner Alvarado asked if the applicant was agreeable to meet those requirements.

Chad Bartee responded yes, they were.

Commissioner Sagar asked what was the maximum length of a cul-de-sac street allowable under the UDC?

Chad Bartee responded that he believed it was 600', but was not completely sure and would double-check.

Commissioner Sagar asked if the street was under that threshold.

Chad Bartee responded that he believed it was and would confirm. (He confirmed it was a few minutes later.)

Commissioner Thompson asked about the development off of Sendero Drive and if it would continue to be developed to the north.

Planner Smithers responded that if the subdivision continued to be developed, then the street would continue to the north.

#### D (3) UDC Fence Text Amendments

CDD Smith stated that staff had been pleased with the new amendments to the fence ordinance adopted in August, and believed it would be appropriate to return the responsibility for hearing variances back over to the Zoning Board of Adjustment. She explained that there were four minor amendments Staff was recommending in addition to transferring fence applications to ZBA.

CDD Smith stated that the second minor amendment was in response to the Commission's concern about fence wraps in lieu of development signs that were too busy and could cause traffic distractions. This amendment would require 50% of the sign to be a white background.

CDD Smith stated that the third minor amendment was related to what constitutes maintenance versus a new fence for the purposes of "grandfathering." If you repair 60% or more of a fence within a year, then you would have to comply with current code.

CDD Smith stated that the fourth minor amendment granted the Public Works Director the authority to approve alternate materials if a fence was constructed in a drainage easement. This issue came up after the packets were delivered and would need to be added to any motion made by the Commission.

Commissioner Sagar stated that contractors now realize that fences are inspected. When they weren't, it may have contributed to the large amount of variance requests.

CDD Smith responded that this was correct and stated that the Commission would need to add the fourth minor amendment into their motion since it was not included into the packet if they supported it.

## **D. ADJOURN**

Chairperson Gary Ponder adjourned the Pre-Meeting at 6:47 P.M.

Meeting went into Recess

Meeting Reconvened

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

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

Chairperson Gary Ponder called the meeting to order at 7:03 P.M.

### **B. PLEDGE OF ALLEGIANCE**

Vice Chairperson Osgood led the Pledge of Allegiance to the United States Flag and the Pledge to the Texas Flag.

1. Pledge to the United States Flag
2. Pledge to the Texas Flag - "Honor the Texas Flag: I pledge allegiance to Thee, Texas, one State under God, one and indivisible."

### C. PERSONS TO BE HEARD

No one came forward.

This is a time for the public to address the Board/Commission on any subject. However, the Texas Open Meetings Act prohibits the Board/Commission from discussing issues which the public has not been given seventy-two (72) hours' notice. Issues raised may be referred to City Staff for research and possible future action.

### D. NEW BUSINESS

1. [Consider approval of the minutes of the Planning and Zoning Commission Meeting on November 25, 2019.](#)

**A motion was made by Commissioner Leslie Sagar, seconded by Commissioner Ralph Osgood, to approve as amended Consider approval of the minutes of the Planning and Zoning Commission Meeting on November 25, 2019. The motion carried by the following vote:**

**AYE:** 5 - Commissioner Sagar, Commissioner Stevens, Commissioner Osgood, Commissioner Alvarado and Ponder

**ABSTAIN:** 1 - Commissioner Apke

**N:**

**RECUSED:** 1 - Thompson

**ED:**

2. [PUBLIC HEARING: Consider a request to rezone from Single Family Residential - 36,000 square-foot minimum \(SF-36\) to Single Family Residential - 25,000 square-foot minimum \(SF-25\), on a 5.173-acre tract of land, being Tract 1B01, Abstract 1651 of Weatherford, Hardin Survey, and Block 1, Lot 1, of the Gary Addition-Keller, located on the east side of Keller Smithfield Road South, situated at the intersection of Village Trail and Keller Smithfield Road, addressed as 1085 Keller Smithfield Road and 1109 Village Trail. Brian and April Adams, Owner. Sage Group, Inc. for Burk Collins Company, Applicant/Developer. \(Z-19-0003\)](#)

Planner Cyr gave a brief presentation on item D (2), and stated that staff sent out twenty letters on November 27, 2019. He continued that staff had received fifteen total signatures in opposition to this item.



**Chairperson Ponder opened the Public Hearing.**

Pam Turner, a resident of 1116 Keller Smithfield South, expressed her opposition.

Greg Hernandez, a resident of 1100 Senduro Drive, expressed his opposition.

Jim Burrish, a representative of West Wind Church located at 1300 Sarah Brooks, expressed concerns about stormwater runoff with this proposed development.

Melinda Ring, a resident of 1132 Village Trail, expressed her opposition.

**Commissioner Alvarado made a motion to close the Public Hearing for Item D-2, seconded by Commissioner Stevens. The motion carried unanimously.**

Curtis Young, the applicant, stated that they are disappointed with the amount of opposition but will try to answer some of their concerns. He stated that they were trying to work within

the FLUP and explained that the Thoroughfare Plan for Keller-Smithfield Road was to expand it to a four-lane arterial road.

Curtis Young stated that they had factored that into their planning, and also it would be good planning to access the lots internally.

Curtis Young stated that they do comply with the FLUP and noted similar zoning around the subject property and also stated that they are only asking for one or two more lots with this zoning change request.

Curtis Young discussed the concept plan and briefly explained that they believed the proposal was high quality. They had not done a complete drainage study, but they had done a preliminary study and he explained some of the drainage processes associated with the concept plan.

Commissioner Apke asked if the applicant could provide more detail on the drainage

and the capture of water.

Clayton Ruddinger, the applicant's engineer, responded that the low point in the road would discharge out to the back of lot seven.

Commissioner Apke asked how much the detention pond could hold on the back of lot seven.

Clayton Ruddinger responded that the plan is conceptual and that the primary responsibility for this detention pond would be to store water temporarily during storms.

Commissioner Apke asked if this was based on a 100-year plan.

Clayton Ruddinger responded that the size of the basin was always based on the 100-year plan.

Commissioner Apke asked if the applicant was proposing some kind of fence or wall off of Keller-Smithfield Road.

CDD Smith stated that staff would work to confirm what was required along Keller-Smithfield.

Curtis Young responded that they wanted to do something that looked good and wanted to be consistent with the surrounding area.

Planner Smithers stated that the west side of the proposed development would have to incorporate a screening wall.

Curtis Young stated that they were happy to work with staff to meet that requirement.

Commissioner Thompson asked the applicant what the setback to the entrance of the subdivision would be.

Curtis Young responded that he believed it would be approximately 400 feet.

Commissioner Thompson asked if they were going to increase or control the concentration of the outflow from the detention pond.

Curtis Young responded that the whole point of the detention pond was so that the runoff does not increase.

Commissioner Thompson stated that with current zoning they could yield about 6.25 lots and asked if they were proposing seven lots.

Curtis Young responded this was correct.

Commissioner Thompson asked if they would be the ultimate builder of this subdivision.

Curtis Young responded Burt Collins would develop the property and they would bring in custom home builders.

Commissioner Thompson asked what the size and price point of these homes would be.

Curtis Young responded that they would most likely exceed 3,000 or 3,500 square-feet and would be approximately \$600,000 to \$700,000. He stated that these variables would all depend on the buyer.

Commissioner Thompson asked staff what the minimum size for the main structure was for SF-36 and SF-25.

Planner Smithers responded that the minimum dwelling size for SF-36 and SF-25 was 2,400 square-feet.

Commissioner Osgood asked about the entrance to this development and how the

applicant chose this design.

Curtis Young responded that traffic on Keller-Smithfield made it more logical to put one entrance off of Village Trail.

Commissioner Osgood asked if there was a traffic study done for this proposal.

Curtis Young responded that he did not believe it met the threshold to do a traffic study.

Commissioner Osgood stated that the storm water issue did need to be addressed in this area and it seemed as if the applicant was approaching it in the right direction.

Commissioner Alvarado thanked everyone involved, however he did have some issues with this proposal.

Commissioner Alvarado stated that he was finding it difficult finding a hardship to downzone from SF-36 to SF-25 to make this development work. He continued that this was important because the Commission had to weigh the allowances of the zoning change with the concerns of the citizens.

Commissioner Alvarado stated that when attempting to update the FLUP, maintaining the look and feel of Keller was one of the major concerns. Commissioner Alvarado stated that changing the zoning would go against the wishes of the citizens, and brought up that these were the most opposition letters that he had seen.

Commissioner Alvarado stated that he does see a path forward with SF-36 zoning.

Commissioner Sagar thanked the applicant and the people that came out to speak. She also stated that she had counted nineteen signatures, not fifteen.

CDD Smith responded that there were nineteen signatures, but four of those

signatures had also sent letters. This totaled to fifteen in opposition.

Commissioner Sagar asked if this was fifteen addresses in the nearby area.

CDD Smith responded that more than 50% of the land area was within 200 feet.

Commissioner Sagar asked Chad Bartee to look at the pictures provided by Mr. Ring and Mrs. Ring.

Commissioner Sagar echoed Commissioner Alvarado's comments and explained that she also had concerns rezoning the property due to the amount of opposition.

Commissioner Stevens asked which direction the drainage was running.

Chad Bartee responded that it ran northwest to southeast.

Commissioner Stevens asked where all the water is coming from, in reference to the photos Commissioner Sagar discussed.

Chad Bartee stated that the drainage area came from the north and northwest, there was some drainage that came from the west which could potentially be problem.

Commissioner Stevens asked if there were storm drains in this area.

Chad Bartee responded no, there were mainly bar ditches along Village Trail.

Commissioner Stevens asked if the flooding occurring on Village Trail was occurring from a different area.

Chad Bartee responded that this was correct.

Commissioner Stevens asked if it could be required to design more retention for the pond.

Chad Bartee responded that the drainage ordinance only allows the applicant to retain runoff that was created only by them.

Commissioner Stevens stated that if they were to go down to six lots, then the driveways would have to come off of Keller-Smithfield. Commissioner Stevens believed there were multiple points of conflict with that design compared to this design with only the one entrance off Village Trail.

Commissioner Stevens asked about the requirements for right-of-way on this proposal.

Chad Bartee responded that the required right-of-way width was 100 feet and 50 feet off of Village Trail.

Commissioner Stevens asked about the right-of-way south of lot one and lot seven.

Curtis Young responded that they would be giving a total of 60 feet and the pavement would be out of the right-of-way.

Commissioner Stevens stated that there was right-of-way on private property, and asked if there was an easement.

Chad Bartee responded that he was not sure.

Commissioner Stevens stated the surrounding developments are consistent with this concept plan and several utilized cul-de-sacs.

Chairperson Ponder stated that he was always sensitive to traffic concerns, but did not have a concern with this proposed project. He observed that the property would eventually be developed as SF-36 if not SF-25 and did not see a difference between six lots and seven lots.

Commissioner Alvarado stated that he would move to deny because of past FLUP

discussions and the amount of opposition.

Commissioner Osgood stated that in that case he would vote against the motion, because he believed that the issues brought up against this proposed development would not go away even if the plan was to change from seven lots to six lots. He explained that spot zoning is also a consideration but did not believe it to be a problem in this case.

Commissioner Osgood stated that the developer did respond to the City in relationship to five separate issues and responded positively.

Commissioner Thompson stated that a zoning request like this could be very emotional and in recognizing this, you would have to look at the realities based around this proposal. He considered whether it met the FLUP, had the drainage issues been addressed, and did

it make strides to correct existing issues. Commissioner Thompson pointed out that SF-25 was to the east of this property, to the south is SF-15 and SF-20, and SF-25 is surrounding.

Commissioner Thompson stated that he believed it provides a buffer from SF-36, believed with the economy right now that the product would be good, and would be supportive of this development.

Commissioner Alvarado stated that this zoning change could create a slippery slope and down-zoning changes was the reasoning behind his motion.

**A motion was made by Commissioner Paul Alvarado, seconded by Commissioner Leslie Sagar, to deny PUBLIC HEARING: Consider a request to rezone from Single Family Residential - 36,000 square-foot minimum (SF-36) to Single Family Residential - 25,000 square-foot minimum (SF-25), on a 5.173-acre tract of land, being Tract 1B01, Abstract 1651 of Weatherford, Hardin Survey, and Block 1, Lot 1, of the Gary Addition-Keller, located on the east side of Keller Smithfield Road South, situated at the intersection of Village Trail and Keller Smithfield Road, addressed as 1085 Keller Smithfield Road and 1109 Village Trail. Brian and April Adams, Owner. Sage Group, Inc. for Burk Collins Company, Applicant/Developer. (Z-19-0003). The motion failed by the following vote:**

**AYE:** 2 - Commissioner Sagar and Commissioner Alvarado

**NAY:** 5 - Commissioner Stevens, Commissioner Osgood, Commissioner Apke, Ponder and Thompson

**A motion was made by Commissioner Bob Stevens, seconded by Tom Thompson, to approve PUBLIC HEARING: Consider a request to rezone from Single Family Residential - 36,000 square-foot minimum (SF-36) to Single Family Residential - 25,000 square-foot minimum (SF-25), on a 5.173-acre tract of land, being Tract 1B01, Abstract 1651 of Weatherford, Hardin Survey, and Block 1, Lot 1, of the Gary Addition-Keller, located on the east side of Keller Smithfield Road South, situated at the intersection of Village Trail and Keller Smithfield Road, addressed as 1085 Keller Smithfield Road and 1109 Village Trail. Brian and April Adams, Owner. Sage Group, Inc. for Burk Collins Company, Applicant/Developer. (Z-19-0003) The motion carried by the following vote:**

**AYE:** 5 - Commissioner Stevens, Commissioner Osgood, Commissioner Apke, Ponder and Thompson

**NAY:** 2 - Commissioner Sagar and Commissioner Alvarado

3. [PUBLIC HEARING: Consider amendments to the City of Keller Unified Development Code \(UDC\), adopted by Ordinance No. 1746 dated July 7, 2015, by amending Article 8 - Zoning Districts, Development Standards, Tree Preservation, related to fence requirements; authorizing publication; provide for penalties; and establishing an effective date. City of Keller, applicant. \(UDC-19-0019\)](#)

Planner Cyr gave a brief presentation on Item D-3 to amend the fence ordinance by referring variance requests back to the Zoning Board of Adjustment and three other minor amendments related to fence wrap, building materials for fences in drainage easements, and what qualified as maintenance versus repair as it related to grandfathered fences.

**Chairperson Ponder opened the Public Hearing.**

No one came forward.

**Commissioner Apke made a motion to close the Public Hearing for Item D-3, seconded by Commissioner Alvarado. The motion carried unanimously.**

Commissioner Stevens asked for clarification regarding alternative materials.

CDD Smith stated that when next to a drainage easement, the UDC only allows rod



iron or tubular steel. The proposed amendment would allow the Public Works Director the authority to allow wood materials next to the drainage easement if it had no adverse impact on drainage.

Commissioner Stevens asked if the Public Works Director had the authority to approve a plastic fence or a material that is only allowed by code.

CDD Smith responded that they would only be able to approve a material that is allowed by code.

Commissioner Stevens asked if staff was confident that this amendment is clear that it does not give the ability to approve materials beyond what is already permitted.

CDD Smith suggested that Commissioner Stevens add clarifying language to that amendment to make it clear.

**A motion was made by Commissioner Bob Stevens, seconded by Commissioner Paul Alvarado, to approve with conditions PUBLIC HEARING: Consider amendments to the City of Keller Unified Development Code (UDC), adopted by Ordinance No. 1746 dated July 7, 2015, by amending Article 8 - Zoning Districts, Development Standards, Tree Preservation, related to fence requirements; authorizing publication; provide for penalties; and establishing an effective date. City of Keller, applicant. (UDC-19-0019) The motion carried by the following vote:**

**AYE:** 7 - Commissioner Sagar, Commissioner Stevens, Commissioner Osgood, Commissioner Alvarado, Commissioner Apke, Ponder and Thompson

## **E. ADJOURN**

**Chairperson Gary Ponder adjourned the meeting at 8:18 P.M.**

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Chairperson

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Staff Liaison