



City of Keller
Planning & Zoning Commission
Meeting Minutes

Keller Town Hall
1100 Bear Creek Parkway
Keller, TX 76248
817-743-4000
www.cityofkeller.com

Tuesday, May 26, 2020

PRE-MEETING BRIEFING 6:00 P.M.

A. CALL TO ORDER – Chairperson Gary Ponder

Chairperson Gary Ponder called the virtual Pre-Meeting Briefing to order at 6:00 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)

James Dawson, Alternate (Non-voting)

Staff present included Katasha Smithers, Planner I; Julie Smith, Community Development Director (CDD); Trina Zais, Director of Public Services and Economic Development (PSD), and Amy Botcher, Planning Technician.

B. DISCUSS AND REVIEW AGENDA ITEMS

C (1) Approval of the Minutes April 14, 2020

There were no comments or questions from the Commission.

C (2) Approval of the Minutes for May 12, 2020

Commissioner Sagar stated she sent corrections to CDD Smith.

CDD Smith responded that the minutes had been updated to reflect those changes.

C (3) Consider a recommendation for a Site Plan with two variances

Planner Smithers gave a brief presentation on Item C (3). On April 14, 2020, City Council approved McClure Partners' SUP request to construct a 12,180 square-foot, single-story liquor retail store in the Town Center zoning district per Ordinance 1968. During this meeting, the City Council requested the Applicant utilize both a masonry wall and live screening adjacent to the residential subdivision along the north property line. She stated the applicant's proposed site plan reflected this.

Commissioner Osgood asked staff about how the variance for masonry screening walls would impact the future development areas to the east.

CDD Smith responded that it would not impact the area, since the Nellie Stevens Hollies would be around 6 feet tall and act as a live screening wall.

Commissioner Thompson asked about the location of the masonry wall.

Planner Smithers responded that the masonry screening wall would be along the property line including Yaupons, Live Oaks and assorted small shrubbery.

C (4) Mural Amendments

PSD Zais gave a presentation on Item C (4). She stated there had been several discussions about murals in the past and Staff would like to clarify the UDC provisions addressing murals. PSD Zais also stated the most difficult part of developing an ordinance to regulate murals was refining the definition for what a mural was.

PSD Zais also described a number of murals on private buildings Keller had enjoyed over the years. These private murals included:

159 S. Main Street: the Dr. Pepper logo in Old Town Keller was preserved in an easement

as a historic relic through the Façade Improvement Program and recommended by the Keller Economic Development Board and approved by City Council.

164 S. Main Street: a mural yet to be designed and approved for which an easement on the Ann Gibson Insurance Agency building has been secured as part of the Old Town Keller Phase I Revitalization effort.

163 S. Main Street: the longhorn skull mural on Nikko Blu at the request of the owner of Nikko Blu, recommended by the Public Arts Board and approved by City Council.

128 Keller Parkway: Artful Mayhem proposed a framed piece of art to be the size of a mural, but not directly applied to the building, recommended by the Arts Board and approved by the City Council. This project was not completed.

962 Keller Parkway: Starbucks proposed a mural that was processed as a variance to the UDC, under signs, recommended by the Planning and Zoning Commission and approved by the City Council.

PSD Zais stated that the process for approving murals in surrounding cities varies. In most cities, she noted, it would move forward to Planning and Zoning and then to City Council for final approval, which was being proposed for Keller, too. She also stated that Fort Worth had an Art Board that would approve them. However, the Keller Public Art Board would prefer not to address private art.

She explained the UDC inconsistencies and the need to clarify the process, content and materials for the residents and the City. Allowing murals to only be established in the Old Town Keller zoning district and Katy Road zoning district at this time would allow the City to test the regulations in a small area before possibly expanding to other zoning districts.

PSD Zais recommended that the murals, under the UDC, should be considered on a case-by-case basis. Public murals shall be considered by the Public Arts Board for recommendation to and approved by the City Council. Private murals approval process would include a recommendation from the Planning and Zoning Commission to the City

Council.

Murals could not include any owner identification or commercial text message; however, they should not contain graphics or images that relate to the products or services offered on the premises where the mural was located.

Murals or art representation displaying any owner identification or commercial text message would be considered as a "flat/wall sign." Murals should not depict nudity or obscene images and would have to be generally acceptable for viewing by all audiences.

PSD Zais also stated that materials utilized in painting a mural should have proven durability and should be maintained or removed if not maintained.

PSD Zais explained that the current UDC needs an expanded definition regarding murals. She explained that a "Private Mural" would be defined as: "An approved mural on a private structure provided with private funding and visible from publicly accessible space(s) such as streets, sidewalks, trails, etc."

She also recommended that "Public Mural" be defined as: "An approved mural on a public structure or on a private structure within a public purpose agreement provided with public funding and visible from publicly accessible space(s) such as streets, sidewalks, trails, etc."

Commissioner Osgood opened the discussion regarding a previous request from Braums on a "Hamburger and French Fries" decal that they wanted to put on the side of the building.

CDD Smith responded that their request would not fall under the definition of a mural, but rather a banner.

Commissioner Osgood asked if a mural could be painted on the building directly.

CDD Smith responded it would be considered a mural and would go to Planning and Zoning and then to City Council.

Commissioner Osgood also shared a concern about the possibility of political ads.

PSD Zias stated that each application for a mural would be independent and decided on individually.

CDD Smith concurred and stated it would be up to the Commissioners to decide what was best for Keller and that particular area.

Commissioner Alvarado spoke about his concern regarding prohibiting text on the murals.

CDD Smith stated that the First Amendment protected all speech regardless. Eliminating all text completely, the Commission and the Council would not have to worry about offensive or undesirable text that might be protected speech.

Commissioner Thompson stated that he loved and supported murals. He was concerned about a possible “slippery slope” when it comes to omitting text from the murals. He stated that the origins of many historic and iconic murals was for advertising, not for art., and thus contained text (like the Dr. Pepper mural).

CDD Smith responded that the Planning and Zoning Commission and City Council would have the ultimate say on what could or could not be in a mural in terms of images.

Commissioner Sagar stated that the most important language was that “it should be generally acceptable for viewing for all audiences.” She further explained that this specific language would also prevent images that could also have a negative meaning.

Commissioner Alvarado asked if processes are in place if the final mural does not match the approved plans.

PSD Zais responded that yes, much like site maps, it must match. We could also further protect the review process by requiring a SUP for murals.

1. Discuss future meetings.

Commissioner Sagar stated her concerns that the pandemic was not at all over. She

stated some of the Planning and Zoning Commissioners were over 65, and that automatically places them in the "high risk" category. She also stated that the virtual meetings had worked affectively, and did not think at this time the Commission should go back to in-person meetings at City Hall.

Commissioner Stevens concurred with Commissioner Sagar and stated that it would be good to err on the side of caution. He also commented that his own company made arrangements for people to work from home until September 1st.

Commissioner Thompson stated that he felt that the pandemic had been blown out of proportion and suggested that if a Commissioner feels unsafe they could have an alternate take their place. However, he would agree with whatever decision the Commission made.

Commissioner Dawson stated that he worked for Verizon, and they had banned all travel and in-person meetings until at least September, possibly the first of the year. He believed that this would continue for some time and agreed that everyone should err on the side of caution.

Commissioner Osgood stated that he did not want to risk his family's health due to possibly being exposed to asymptomatic people. He stated he was a huge proponent of open meetings, and this made it a challenging dilemma. However, he agreed he would like to keep the meetings virtual for the time being.

Commissioner Alvarado stated that he did not think that people should be forced to meet in person if they did not feel comfortable. He also stated that at some point, as leaders, we should allow those wanting to participate in person to do so, with precautions and also common sense.

CDD Smith responded to the Commission that it is not feasible to do a part virtual, part in person, public meeting at this time. The decision on continuing virtually will be for the entire Commission as long as the Governor continued to permit it.

Chairperson Ponder stated that there are Commissioners with concerns, and we should

support them. He asked

CDD Smith what needed to happen to continue meeting virtually.

CDD Smith responded that as long as the Governor is allowing it, the Commission could continue to meet virtually.

C. ADJOURN

Chairperson Gary Ponder adjourned the Pre-Meeting at 7:02 P.M.

REGULAR MEETING 7:00 P.M.

A. CALL TO ORDER – Chairperson Gary Ponder

Chairperson Gary Ponder called the meeting to order at 7:09 P.M.

Chairman Ponder, acknowledging Memorial Day, asked for a moment of silence to honor those who had given their lives for our freedom.

Moment of silence is observed.

Chairman Ponder thanked Staff, Sean Vreeland, Brent Rankin, Mark Hafner, the Mayor and City Council for granting the request of the Planning and Zoning Commission to have meetings virtually.

B. 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.

C. NEW BUSINESS

1. [Consider approval of the minutes of the Planning and Zoning Commission Meeting on April 14, 2020.](#)

Commissioner Osgood moved to approve Item C (1), seconded by Commissioner Apke. The motion carried unanimously.

2. [Consider approval of the minutes of the Planning and Zoning Commission Meeting on May 12, 2020.](#)

Commissioner Stevens made a motion to approve Item C (2), as amended with Commissioner Sagar's comments, seconded by Commissioner Thompson. The motion carried unanimously.

3. [Consider a recommendation for a Site Plan with two variances located on a 1.712-acre property, located on the east side of Keller Smithfield Road, approximately 425-feet northeast of the intersection of Keller Parkway and Keller Smithfield Road, being a portion of Tract 3A12, Abstract 424, Dunham, J A Survey, zoned Town Center \(TC\), and addressed as 100 Chandler Road \(Account#:03853381\). John McClure, McClure Partners, Applicant; Greenway-Keller, L.P., Owner. \(SP-20-0015\)](#)

Planner Smithers gave a brief presentation on Item C (3).

She also stated that in the Town Center zoning district, all site plans were required to be brought forward to Planning and Zoning Commission for recommendation and to City Council for approval.

Planner Smithers stated that the first variance request was to utilize live screening in lieu of the masonry screening wall around the loading dock. The applicant proposed planting two rows of Nellie Stevens Hollies - evergreen, 6-foot shrubs - for live-screening in lieu of the masonry screening wall because of space constraints.

Planner Smithers stated that the second variance request was to utilize live screening in lieu of the masonry screening wall around the ground-mounted utility unit. The location of the electrical transformer box near the loading area did not have adequate space given the separation distance requirements of the electric company. The Applicant proposed to utilize Nellie Stevens Hollies here as well.

Commissioner Ponder asked the applicant if he had anything to add.

John McClure, the Applicant, thanked the Commissioners and Staff for their help and consideration.

Commissioner Osgood made a motion to approve Item C (3), seconded by

Commissioner Sagar. The motion carried unanimously.

4. [PUBLIC HEARING: Consider amendments to the City of Keller Unified Development Code \(UDC\), adopted by Ordinance No. 1746 dated July 7, 2015, by providing provisions to permit murals on private property/businesses and modifying, Article Three – Definitions and Article 8 - Zoning Districts, Development Standards, Tree Preservation; providing penalties; providing a severability clause; providing a conflicting of ordinances clause; authorizing publication; and establishing an effective date. \(UDC-20-0002\)](#)

PSD Zais gave a presentation on Item C (4). She stated that a mural was any piece of artwork painted or applied directly on a wall, ceiling or other permanent surfaces expressed in a form and manner as to provide aesthetic enjoyment for the viewer. A distinguishing characteristic of mural painting is that the architectural elements of the given space are harmoniously incorporated into the picture and it should not contain text.

PSD Zais stated that the Keller Public Arts Board felt that it was not their directive to review any art other than publicly purchased art. Specifically, the Board was uncomfortable reviewing proposals for private art work. Both Planning and Zoning as well as City Council members questioned treating murals like signs, when there was clearly a difference in most minds, and the proposed approval process flowed from the Planning and Zoning Commission to the City Council. She mentioned that most cities followed a process like the one proposed.

She explained the inconsistencies, and the need to clarify the process, content and materials for the residents and the City. Allowing murals to only be established in Old Town Keller and Katy Road at this time would allow the City to start and test the regulations in a small part of town before possibly expanding.

The proposed amendments to the UDC for murals would allow murals to be considered on a case-by-case basis. Public murals should be considered by the Public Arts Board for recommendation to and approval by the City Council. Private murals approval process would include a recommendation from the Planning and Zoning Commission and approval by to the City Council.

Chairperson Ponder opened the Public Hearing

Debbie Wolf, resident at 1285 Mount Gilead Rd., called-in to express her happiness and support of the City wanting to clarify the direction and process for murals. However, she objected to the exclusion of text in the murals.

Commissioner Thompson made a motion to close the Public Hearing for Item C (4), seconded by Commissioner Sagar. The motion carried unanimously.

Chairperson Ponder asked if Commissioners had additional comments.

Commissioner Sager thanked Staff and stated that the most relevant language is “generally acceptable for viewing for all audiences.”

Commissioner Thompson voiced his concern about potential conflicts with the sign codes of the UDC and that, in his opinion, murals could be construed as advertisements.

Commissioner Alvarado thanked Staff and stated that everyone was working with the best interest of the City in mind.

Commissioner Osgood stated that he and his wife had been to Dallas to view the “Whaling Wall,” which was a mural that had recently resurfaced during a restoration process on a building. He stated that the only text on the “Whaling Wall” mural was the signature of the artist and asked if author’s signatures would be allowed or would also be considered text and prohibited.

PSD Zais acknowledged and responded that the proposed amendments would allow signatures on murals as signatures were a trademark for the art itself.

Commissioner Stevens made a motion to approve Item C-4 as presented, seconded by Commissioner Sagar. The motion carried unanimously.

D. ADJOURN

Commissioner Ponder took time to thank PSD Trina Zais for her work on “Beyond the Mask” for the City of Keller. He stated that Beyond the Mask was a disaster recovery forgivable loan fund for small businesses in Keller that have been affected

by Covid-19. He then read a letter from Council Members Becky Paquin and Chris Whatley that was sent to Commissioners in praise of the program and encouraged contributions to the program.

Chairperson Gary Ponder adjourned the meeting at 7:53 P.M.

Chairperson

Staff Liaison