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, October 27, 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:

Gary Ponder, Chairperson

Ralph Osgood, Vice Chairperson

Tom Thompson

Paul Alvarado

Bob Apke

James Dawson

Leslie Sagar

Phillip Maxwell- Alternate

Staff present included Katasha Smithers, Planner I; Julie Smith, Director of Community Development; Chad Bartee, City Engineer; Sean Vreeland, Director of Information Technology and Amy Botcher, Planning Technician.

B. ADMINISTRATIVE COMMENTS

1. Planner Smithers gave a briefing from the October 6, 2020, City Council Meeting. The items brought forward for consideration were a SUP for Advanced Care Medical at 1220 Keller Parkway and a final plat with one variance for 82 Wilson Lane. The Council approved both items unanimously.

2. Planner Smithers gave a briefing from the October 20, 2020, City Council Meeting. The items that were brought forward for consideration were a SUP for Renewed Strength Chiropractic at 130 Hill Street and also a Site Plan with four variances for the Keller Senior Center at 640 Johnson Road. The Council approved both items unanimously.

3. CDD Smith discussed the November and December Planning and Zoning meeting schedules. She stated that traditionally the Commission had not met close to Christmas or Thanksgiving.

Commissioner Sagar, Commissioner Osgood, Commissioner Dawson, Commissioner Thompson and Commissioner Alvarado stated they were available on the regular meeting dates for November and December if needed.

Commissioner Ponder stated he had commitments on those dates, but explained that the Commission would be available if necessary.

C. WORK SESSION

CDD Smith gave a brief presentation regarding amending the Keller Unified Development Code to change requirements for carports. She noted this was a work session as well as a regular agenda for this meeting.

She gave the example of the carport recently built at Rufe Snow and Simmons. This specific carport was approved under the City's current regulations. She explained the addressing was originally to Simmons rather than Rufe Snow. Once the owner re-plats to address Rufe Snow, the structure will meet the setbacks and conform.

CDD Smith stated the aesthetics of carports seemed to cause the concern. Keller only received an average of three carport requests a year. Requiring an SUP for carports would not create an onerous workload for Staff, Commission, or Council. She explained it was up to Planning and Zoning as well as City Council to decide if this was something attractive to Keller or not.

Chairperson Ponder asked if there were any questions.

Commissioner Sagar stated the carport at Rufe Snow and Simmons looked to be a "RV Port" instead of a "Carport". She also questioned since the City's ability to control building materials had been taken away previously by the Texas Legislature, does Staff think that would change in 2021.

CDD Smith responded she believed we could see those changes in 2021, though it's difficult to predict what the Legislature might do.

Commissioner Sagar stated the language pertained to carports, not RV ports.

CDD Smith responded that in the UDC, they were viewed as the same.

Commissioner Sagar asked if they should be made separate.

CDD Smith explained the height is what the difference would have been. An SUP would be triggered due to the height necessary for a RV. Carports could be no taller than 15 feet.

Commissioner Sagar commented that she thought an SUP would be appropriate, because it would give neighbors a chance to comment before it was built.

CDD Smith stated some vehicles would not fit into a traditional garage, therefore, carports give an option other than building a secondary garage.

Commissioner Sagar asked Staff if a carport were for agricultural use, would the materials have to compliment the main structure.

CDD Smith responded Keller did not have an agricultural zone. She stated there had been variances requested and approved in the past on materials. It would currently require a variance as the City does not distinguish for Ag use.

Commissioner Thompson asked how the average height was calculated.

CDD Smith stated it was the difference between the plate and ridge line.

Commissioner Thompson expressed his support for the SUP.

Commissioner Osgood asked CDD Smith whether a large tarp could be placed over a RV in lieu of a carport.

CDD Smith responded that she would need to confirm with Code Enforcement. She also responded to earlier comment by Commissioner Sagar that in a SF-36 zoning, architectural metal could be utilized.

Commissioner Alvarado stated he would have liked more time to consider issues like this, by not placing the item both on the work session and meeting in the same night.

CDD Smith stated this was the first time she had ever felt comfortable bringing a work session before the meeting discussion. She told Commissioners she would change this process for the future if they would prefer. She also notified the Commission that two Council members had requested another item come forward without a work session. CDD Smith stated Staff would provide the information ahead of time for their review.

Chairperson Ponder stated that yes, they would prefer it that way. He also said being able to communicate with Staff ahead of time was beneficial.

CDD Smith responded that they would have the information by the end of the week or beginning of the next and forward it to the Commission ahead of the agenda.

Commissioner Maxwell asked if the end of the carport frame could be covered so the structure more closely resembled the house, possibly by using vertical metal siding.

CDD Smith stated that would have been a great example of the questions that could be posed during a SUP process.

Commissioner Ponder acknowledged Commissioner Maxwell's comment and stated there may be a need for more regulations on carports.

Commissioner Dawson asked how the language would coincide with the legislature that does not allow the City to determine materials.

CDC Smith stated the UDC stated "compatible with" the main structure. The only districts that metal would be "compatible" in with the current UDC would be SF-36.

Commissioner Dawson asked if metal would be allowed outside of the SF-36 district.

CDD Smith stated she was unaware of any metal façade homes in Keller. She added there were steel siding companies that produce metal siding that looked like board and baton and so it was possible that such a structure was in Keller.

Commissioner Dawson asked what the level of enforcement would be given the language.

CDD Smith stated the SUP process gave the Commission and Council the ability to determine potential additional requirements.

D.DISCUSS AND REVIEW AGENDA ITEMS

C (1) Discuss and Approve Planning and Zoning Commission Meeting Minutes for October 7, 2020.

No questions or comments.

C (2) Discuss and Approve Planning and Zoning Commission Meeting Minutes for October 13, 2020.

No questions or comments.

C (3) Final Plat for Samantha Springs at 1449, 1450 and 1451 England Drive.

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

Commissioner Osgood asked Staff why this type of issue was being brought before Planning and Zoning and not handled solely by staff.

CDD Smith responded that Staff may only approve a minor subdivision which has less than four lots. The proposed plat creates 16 lots and must be brought to Planning and Zoning according to State law.

Chairperson Ponder asked if there were any questions or comments from Commissioners.

There were no additional questions or comments.

C (4) PUBLIC HEARING- Request SUP for a 2000 square-foot accessory building for Jeff Abate at 833 Rufe Snow.

Planner Smithers gave a brief presentation on item C (4).

Commissioner Sagar stated she hoped Staff had kept count of all support and opposition letters from neighbors of 833 Rufe Snow.

Planner Smithers responded that at the time of the meeting, there were 18 in opposition and 11 in support. CDD Smith added of the eleven in support, one was a HOA.

Commissioner Apke stated according to the Site Plan, the proposed set back was fifty feet. He added according to the photo supplied by Diane Graff, it looked as if the structure was much closer to her yard.

Planner Smithers stated Staff measured and confirmed the structure was 67 feet from the property line.

Commissioner Osgood asked if the barn had not been built yet, would this distance have been an issue.

Planner Smithers responded there were no other variances being requested.

CDD Smith stated the size of the structure was what had driven the requirement for the Special Use Permit.

Commissioner Osgood asked if the City would have the right to fine the owner and/or contractor.

CDD Smith explained that yes, the City could assess fines to both the owner and the contractor. She said those violations vary from $1,000.00-$2,000.00 per day, per violation.

Commissioner Osgood inquired about the home renovation and the building permit.

CDD Smith stated the house remodel also required a building permit. She said Staff had worked with the applicant to issue a permit with a caveat that inspections could not be done for the house remodel until the barn was brought into compliance.

Commissioner Osgood asked if Staff was sure Mr. Abate was doing that.

CDD Smith stated that the applicant would not be able to call for any inspections until the barn was in compliance. If he confirmed working without a permit on his home, he would eventually have to rip out the work so it could be inspected before he could obtain a Final Inspection.

Commissioner Osgood inquired about how often Staff experienced residents building without a permit.

CDD Smith responded City Council member Tag Greene had spoken about similar circumstances previously. She said he identified one group who truly did not know they needed a permit. The second group got a permit after starting to build (ask permission later). The third group had no intention of complying and just built what they wanted.

Commissioner Osgood stated he expected people to be rule-followers. There were regulations in place for important reasons.

Commissioner Thompson asked when the old barn structure had been taken down.

CDD Smith stated it may have been there in the 1990's; however, it would be best to ask the applicant.

Commissioner Thompson asked if the item before the Commission was for the barn and not the penalization of the house remodel without a building permit.

CDD Smith stated the concern from the neighbors seemed to be more related to not knowing the intentions of the applicant.

Commissioner Thompson stated that with the item being a SUP for the barn, the Commission should focus on that aspect only for this meeting.

CDD Smith responded yes, in terms of building the barn without a permit, however, it reflects a pattern.

Commissioner Maxwell asked what the timeline was from being notified of the violation until now.

CDD Smith stated in August a neighbor had called to inform the City that a foundation was being poured. Flatwork is permitted without a permit, therefore notice was not given until the structure went vertical.

Commissioner Maxwell asked how long construction of the barn took.

CDD Smith didn't know but could not have been longer than a couple of months including the foundation.

Commissioner Maxwell stated it seemed that the applicant could have applied for a building permit retroactively.

CDD Smith stated yes, but an SUP would still have been required for a structure over 1,200 square-feet.

Commissioner Thompson stated a structure like the one discussed could have been built in three or four days.

Commissioner Apke stated when the applicant had circulated his petition, it was for a 1500 square-feet building plus a lean-to. He questioned Staff if it was possible there had been a misunderstanding with how to calculate the square footage.

CDD Smith responded she understood that neighbors had been told the structure was 300 square-foot. She was anticipating the neighbors to call in directly to discuss what they had been told.

Commissioner Sagar stated she had been on the Commission for twelve years and had never seen a case like this.

Chairperson Ponder explained that Staff and the Commission spent a lot of time trying to get this process right. He said it was very serious when someone violated the principles of what we expected people to do.

Chairperson Ponder asked if there were any questions or comments from Commissioners.

There were no questions or comments.

C (5) PUBLIC HEARING- Request Planned Development Amendment for Single Family at 7240 Shady Grove Road.

Planner Smithers gave a brief presentation on item C (5).

CDD Smith stated this had been in front of Council two times before to subdivide into four lots and then into three. This was proposing two lots- both of which meet the underlying zoning. Staff did not have any objections with this request.

Chairperson Ponder asked if there were any questions or comments from Commissioners.

There were no questions or comments.

C (6) PUBLIC HEARING- Request to extend SUP for home renovation and existing accessory structure at 1565 Nightingale Circle.

No action will be taken at this time.

C (7) Final Plat for the Senior Center with one variance to the Right-of-Way at 640 Johnson Road.

Planner Smithers gave a brief presentation on item C (7).

Chairperson Ponder asked if there were any questions or comments from Commissioners.

There were no questions or comments.

C (8) PUBLIC HEARING- Request amendment to the UDC related to carports to require a Special Use Permit (SUP) in all residential zoning districts.

Planner Smithers gave a brief presentation on item C (8).

Chairperson Ponder asked if there were any questions or comments from Commissioners.

There were no questions or comments.

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 7:00 P.M.

Chairperson Ponder expressed his gratitude to 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.

C. NEW BUSINESS

1. Consider approval of the Planning and Zoning Commission Meeting Minutes on October 7, 2020.

Commissioner Sagar made a motion to approve Item C (1), seconded by Commissioner Thompson. The motion carried 7-0 with Commissioner Apke abstaining.

2. Consider approval of the Planning and Zoning Commission Meeting Minutes on October 20, 2020.

Commissioner Alvarado made a motion to approve Item C (2), seconded by Commissioner Apke. The motion carried 6-0 with Commissioner Sagar abstaining.

3. Consider recommending approval of a Final Plat for Samantha Springs, a 16-lot residential subdivision, being a part of the Rutha Baker Survey, Abstract No. 108 on a 16.5 acre tract of land, on the south side of Melody Lane intersection, currently addressed as 1449 (Acct # 05979498), 1450 (Acct # 03745414), and 1451 (Acct # 05672422) England Drive, and zoned SF-36 (Single Family Residential – Low Density). Joe McCombs, owner/developer. (P-20-0033)

Planner Smithers stated the Preliminary Site Evaluation for the Samantha Springs Subdivision was approved administratively in May 2020. The design of the site met all of the minimum standards of the base SF-36 Zoning District. On October 8, 2020, the Civil Plans for Samantha Springs were approved by the Public Works Department.

She said the purpose of this request was to receive approval of the Samantha Springs Addition, a Final Plat for a 16-lot residential subdivision including Lots 1-8, Block A, and Lots 1-8, Block B. This proposal meets the UDC requirements of the base Zoning District SF-36 (Single Family Residential – Low Density) and therefore the Commission had to approve the plat per State law.

Chairperson Ponder asked if there were any questions or comments.

Commissioner Thompson asked Chairperson Ponder to give a brief explanation to the public on this process only allowing approval in this case.

Chairperson Ponder explained the Planning and Zoning Commission had to approve any final plat that meets the UDC and does not have variances. He noted this request did not have any variances requested.

Commissioner Sagar made a motion to approve Item C (2) as submitted, seconded by Commissioner Thompson. The motion carried unanimously.

4. PUBLIC HEARING: Consider a request for a Specific Use Permit (SUP) for an approximately 2,000 square-foot accessory building to be utilized as a barn, on an approximately 10.02-acre property, located on the east side of Rufe Snow Drive, approximately 350 feet southeast of the intersection of Clearwater Lane and Rufe Snow Drive, being Block 1, Lot 1A, William Slaughter Addition, zoned Single-Family 36,000 square-foot lots (SF-36), located at 833 Rufe Snow. Series 833, A Series of Steadfast Properties LLC, owner. Jeff Abate, applicant. (SUP-20-0019)

Planner Smithers stated on August 3, 2020, Staff was notified of potential code violation at 833 Rufe Snow. Code Compliance staff found the applicant had built a 2,000-square-foot barn without the requisite SUP or building permit. Code Compliance also noted there were more than two accessory structures on the site- another violation of the UDC.

In late August 2020, the Applicant met with Staff to determine the proper process for coming into compliance. Staff explained that in addition to obtaining the necessary building permit, an SUP must first be obtained by the Planning and Zoning Commission and City Council for the oversized structure (in excess of 1200 square feet).

Planner Smithers stated on September 15, 2020, Staff asked for and was granted access to the site to verify the dimensions of the building and its distance to the property lines. The barn was approximately 67 feet from the north property line. The structure was 40 x 50 feet and included an overhang along the eastern side. The height of the roof was also verified to be an average of 14’ 2’’ which met UDC standards. Staff noted that the applicant had removed all the accessory structures

but for the well house and the barn. The property then met the UDC in terms of the number of accessory structures.

She said while inspecting the well house, staff discovered kitchen cabinets stored in the structure. The applicant then admitted he was also remodeling the house (without a permit) and invited staff inside the home. The home was stripped to studs. A Stop Work Order was placed on the home. The applicant did submit a building permit for the remodel of the home, and it was issued on September 18, 2020, with the caveat that no inspections would occur until the violation related to the barn was resolved.

Planner Smithers stated sometime after September 15, 2020, Staff was notified of additional work at the property. Staff found the applicant had notified Tri-County to run a service line out to the barn to provide electricity to the structure. As part of this work, a ditch was dug for the conduit and then covered back up.

The applicant was seeking an SUP to allow the 2,000 square-foot barn to remain. He proposed to utilize the space as a barn to store hay, feed, and tractors.

She stated On October 15, 2020, the City mailed out 62 letters of notifications for this Public Hearing to all property owners within three-hundred feet (300') of the subject site. A public hearing notice sign was posted on the site.

As of today, Staff had received a petition containing 18 signatures of property owners in opposition. Staff also had received a petition containing 11 signatures in support and two additional letters in support (including a letter of support from The Cobblestone Parks HOA) for a total of 12 property owners and the HOA in support.

Of the 18 in opposition, 17 were within the 200' buffer (32.43%). Consequently, the super majority requirement for City Council approval (20% or greater) was triggered. (This requirement does not apply to the Planning and Zoning Commission.)

Chairperson Ponder asked the applicant if they had anything to add.

Jeff Abate and his wife Loren, owners, called-in to state they had 10 acres. They did not realize a permit was required. There had been a barn there before that was torn down by previous owners,

so they put their new barn up in the same space. After receiving a letter from the City, they realized they were supposed to have obtained a permit. He wanted to note that the City's letter stated they were notified on August 3, 2020, of a potential code violation. However, the barn was not erected until August 24, 2020.

The applicant also stated he contacted Tri County to bring power to the structure. They did not cancel their appointment because they had to wait so long. Power was installed on September 10, 2020, however, the City had not released the meter.

After meeting with neighbors, he found that the largest concern was the fear the property was going to be developed. He stated developing the land was never their intention. They need the barn for their equipment and for feed for the farm animals. Their goal was to eventually live in the house full time.

He acknowledged the LLC that he had. He stated it was for tax purposes due to owning multiple properties. They reside at 910 Cobblestone Parks at this time. Their goals are to clean up the property, leave the trees, take care of their animals and protect their asset.

Mrs. Abate reinforced that he's purchased the property as the place they wanted to raise their children. She said this property had always been something they appreciated and loved. The purpose of having the barn was to house the equipment they use for the property's upkeep, and the barn would allow them to keep the equipment out of sight.

Chairperson Ponder opened the Public Hearing.

Diane Graff, 740 Richmond Lane, stated she wanted to clarify that when she had met with the applicant, she did not request trees be planted as a buffer between her home and the proposed barn. She also wanted to say she never had told anyone the applicant was taking trees down.

Ms. Graff said the 2,000 square-foot building being erected without a permit was a travesty. She said the applicant was a realtor and by default should have known he had needed a permit. She had spoken with the applicant and he had stated he was putting the structure in that specific location due to using existing water and electricity that had gone to the previous barn. She noted the previous barn had been removed in the early 1990's.

She had contacted the applicant, and they had met on September 12, 2020, to discuss the impact on the neighbors. She stated the size of the barn was overwhelming from her back yard. She requested the Commission deny the request.

Ron Shepard, 790 Windmere Way. He stated the applicant came to his home on September 10, 2020 to solicit his support for a 300 square-foot barn on his property. Mr. Shepard stated the barn had been already built and the barn was much larger than what he had stated. He added neighbors had withdrawn support due to the discrepancies. He said there were rules and regulations for good reasons and we should not reward individuals who ask for forgiveness instead of permission.

Commissioner Sagar made a motion to close the Public Hearing, seconded by Commissioner Alvarado. The motion carried unanimously.

Planner Smithers clarified that Staff had not had a conversation with anyone regarding a different location for the structure.

Commissioner Sagar asked how long the applicant had lived at 910 Cobblestone Parks:

The Applicant responded they had lived there since 2013.

Commissioner Sagar asked when the applicant had purchased 833 Rufe Snow.

The Applicant responded they bought it in 2016.

Commissioner Sagar asked how many tractors the applicant had.

The Applicant listed multiple pieces of equipment.

The Applicant stated they would also use the barn for hay and feed storage. The enclosed area of the structure was 1500 square-foot and the lean-to added an additional 500 square-feet. He explained the concrete company told him there was not a permit needed for flatwork and the City later told him this was true. He also stated the company that built the structure told him that a permit would not be required since he was on agricultural property.

Commissioner Sagar asked if the applicant was a realtor.

The Applicant stated he was a realtor for his own properties that he owned.

Commissioner Dawson asked the applicant at which point did he not think he needed a permit for anything. He asked if the applicant as a businessman or homeowner had never had to make improvements that required a permit.

The Applicant stated he had made cosmetic repairs, roofing repairs and foundation work that were not required to have permits. He stated the plumber he had hired was supposed to pull a permit for the gas line but had not done that yet. He also stated he has had others working at the house that had not pulled permits.

Commissioner Dawson asked the applicant if he had ever had to get a permit for any property.

The Applicant stated he also owned a property in Roanoke and had to get a permit for a water heater there before.

Commissioner Dawson asked if he had not tried to obtain a permit because he was concerned with the cost.

The Applicant stated that no, he did not realize he was going to need a permit. He added that going forward he would check with the City for permits on everything.

Commissioner Apke stated he had never seen anyone sign support petitions and then retract it later. He reiterated the original letter dated September 2, 2020, stated the barn was “to be built”; however, it had already been built.

The Applicant responded that it was his understanding the enclosed space was all that was counted for square footage.

Mrs. Abate added that the square footage totals were a misunderstanding. She stated Mr. Abate had tried to explain to the neighbors that he had built the barn 300 square-feet larger than he should have, therefore it had triggered this action.

Commissioner Apke asked Staff to confirm there were not any variances being requested, and the closest setback was 67 feet.

CDD Smith responded there were no variances requested, and the closest setback from a property line was 67 feet.

Commissioner Apke stated Ms. Graff was the most impacted as the barn is in her direct view. He asked the applicant if he would consider putting in trees or plantings to soften the view.

The Applicant stated he would consider that. He offered to install a six-foot fence for her instead of the four-foot fence she currently had.

Mrs. Abate added they had been willing to work with Ms. Graff. She said there was already a lot of trees to block her view, but they would do whatever was deemed necessary.

Commissioner Thompson asked if the applicant's main address was at 910 Cobblestone.

The Applicant responded yes.

Commissioner Thompson asked the applicant when the old barn was removed.

The Applicant responded that it was before they had bought the property.

Mrs. Abate added the property had sat for two to three years with only animals on it.

Commissioner Thompson asked when the concrete had been poured for the new structure.

The Applicant stated July 25th was the concrete prep and July 26th was the pour.

Commissioner Thompson asked the applicant what he did for a living.

The Applicant stated he owned a medical equipment company.

Commissioner Thompson asked the applicant if he was a real estate broker or agent. He stated there was a business listed at 910 Cobblestone Parks named Abate Homes with a website indicating a General Contractor involved with new builds.

The Applicant stated the LLC was created for tax purposes.

Commissioner Thompson asked the applicant if he had ever been involved with tenant finish-outs or development.

The Applicant stated he had hired people for those things.

Commissioner Thompson expressed that he was not comfortable with the comedy of errors that occurred. He spoke about integrity and hoped the applicant just misunderstood what he was supposed to do.

The Applicant stated issues started in 2016 with the flooring. As they started to update the home, they found more and more things that needed to be fixed. He added they had not needed a permit for anything until now with the building of the barn.

Commissioner Thompson asked the applicant if he realized he needed a permit three months ago. He asked if it was around July 1st that he would have needed a plumbing permit.

The Applicant stated around April 28, 2020, was when the gas line was put in, and it was the first time he thought he might need a permit.

Mrs. Abate added they had done work on the house over the years; it had been a process.

Commissioner Thompson asked Mrs. Abate what she did for a living.

Mrs. Abate stated she worked for a biotech company.

Mr. Abate stated he did not know the terminology “flatwork” until his conversation with the Building Official.

Commissioner Alvarado thanked the Abates for presenting their case as well as the other speaker participants. He found the amount of work that had been done without checking with the City egregious. He commented he could not support the request.

Commissioner Maxwell stated he agreed with Commissioner Alvarado. He noted City Staff was there to answer all types of permitting questions.

Commissioner Osgood stated this was not about obtaining approval for the barn. He added he appreciated the need for the barn; however, this was about the SUP requirement. He noted it was their (the Commission's) integrity to uphold the laws of the City.

Commissioner Osgood made a motion to deny Item C (4) and request the City Council to direct Staff to assess the appropriate fines and/or penalties to the property owner and the contractor as appropriate, seconded by Commissioner Alvarado. The motion carried unanimously.

5. PUBLIC HEARING: Consider a request for a Planned Development Amendment Zoning Change from Planned Development- Single Family Residential- 15,000 square foot minimum (PD-SF-15) to amend the previously approved Planned Development to subdivide 7240 Shady Grove Road from one lot to two lots, on an approximately 2.28 –acre property, located on the west side of Keller Smithfield Road, approximately 150 feet southeast of the intersection of Cherry Bark Drive and Keller Smithfield, being Block C, Lot 1, Silverleaf, zoned Planned Development – Single-Family 15,000 square-foot lots (PD-SF-15), located at 7240 Shady Grove Road. Khaled Obaid, owner/applicant. (Z-20-0005)

Chairperson Ponder asked if the applicant has anything to add.

The Applicant had no comment at the time.

Chairperson Ponder opened the Public Hearing.

Leigh Archer, Keller resident, stated his support and his belief this was the best use for the land.

No additional callers.

Commissioner Alvarado made a motion to close the Public Hearing, seconded by Commissioner Apke. The motion carried unanimously.

Commissioner Dawson asked if this was two residential properties.

Planner Smithers responded yes.

Commissioner Apke inquired if the property would be developed with aesthetics similar to Silverleaf.

The Applicant explained he wanted to build custom homes with a French aesthetic. He stated the lot on Keller Smithfield would likely be sold to another builder, but he had not finalized that decision.

Commissioner Thompson asked if the setbacks were correct on the corner lot facing Shady Grove.

The Applicant stated he would be pushing the build-line further back to be more in line with the neighbors.

Commissioner Thompson shared his concern with the view from Keller Smithfield. He asked the applicant if he would be aggregable to moving the side-yard setback to line up better.

CDD Smith asked Commissioner Thompson to clarify where he would like the setback.

Commissioner Thompson stated he would like a 60-foot setback, if possible.

Commissioner Sagar stated her agreement with Commissioner Thompson. She also thanked the applicant for having for sight to make the build lines more congruent with the neighbors.

Commissioner Osgood made a motion to approve Item C (5) with a side-yard setback on 1R1 to be 60 feet to match the other setbacks on Keller Smithfield, seconded by Commissioner Sagar. The motion carried unanimously.

The Applicant agreed to those terms.

6. PUBLIC HEARING: Consider a request to extend a Specific Use Permit (SUP) for a home renovation in conjunction with the construction of an existing accessory structure, on a 1.01-acre lot on the north side of Nightingale Circle, approximately 450 west of the intersection of Greenbriar Drive and Nightingale Circle, being Lot 9, Block 1, Florence Place Addition, zoned SF-36 (Single Family Residential – 36,000 square-foot minimum), located at 1565 Nightingale Circle. David Johnson, owner/applicant. (SUP-20-0024)

No action to be taken at this time.

7. Consider recommending approval of a Final Plat with one variance to the Right-of-Way, being a replat of Lot 1, Block 1, Johnson Road Park, on a 14.8 acre tract of land, on the south side of Johnson Road, approximately 750' south-east of the Bourland Road and Johnson Road intersection, addressed as 640 Johnson, and zoned SF-8.4 with a City-Owned Property Overlay. City of Keller, owner/applicant. (P-20-0026)

Planner Smithers stated in September 2015, the citizens of Keller petitioned the City Council to improve the Senior Activity Center. In response to this, the City Council approved a Needs Study that was conducted by Brinkley Sargent Wiginton (BSW) between September 2017 and January 2018. In June 2018, City Council held a special meeting related to the new Senior Center project and called for a November Bond Election for a new Senior Activity Center.

The Center was originally designed as a 23,198 square-foot facility. However, to reduce the financial impact for the City of Keller, the building was reduced to 21,210 square feet (about 8.5% smaller) by carefully programming uses for shared spaces and maximizing capacity.
The Site Plan was approved by City Council with 4 variances. The variances included:

- Allow 14 parking spaces along the northernmost part of the site to encroach approximately seventeen feet into the thirty-foot required Landscape Buffer along Johnson Road.
- Allow the Senior Activities Center building to encroach approximately five feet into the thirty-foot Landscape Buffer along Johnson Road.
- Allow ornamental trees in lieu of canopy trees within the thirty-foot Landscape Buffer along Johnson Road.
- Provide alternative softscape landscaping in lieu of five-foot foundation planting along the front and side of the building.

Planner Smithers stated the site for the new Senior Center is part of a City-owned complex that included the existing Senior Center, the Keller Public Library, a playground and the related parking areas. Locating the Center on the site posed numerous challenges to the design team including grading; drainage; existing playscape, pavilion and parking; surrounding trees; fire access; and existing right-of-way and utilities.

She added because of these challenges, the Center would be located in the far northwest corner of the property to the west of the Keller Public Library and directly east of the Evergreen at Keller Senior Living Center. She stated the request was to keep the street right-of-way at 65 feet rather than require an additional 5 feet of the required with the 70 feet of street right-of-way identified in the Comprehensive Thoroughfare Plan. Keeping the right-of-way at 65 feet respected the alignment with the adjacent right-of-way dedications to the west and provided sufficient accommodation for the existing and anticipated roadway needs. By seeking the right-of-way variance, the Senior Center would only encroach 5 feet into the 30 foot Landscape Buffer instead of 10 feet.

Commissioner Thompson voiced his concern that the City was asking for a variance for a City project that could possibly have been designed in a way that would have avoided the need for four variances plus the right-of-way. However, he was in support of the project recognizing the costs incurred if a redesign was attempted in addition to the time delay. He also agreed that a developed site was harder to design around them starting from scratch with raw land.

CDD Smith stated Staff had shared the Commission's concerns with City Council about giving the City variances. The City Council shared their concerns about asking for the variances just because it was a City project. But the Council also appreciated the challenges the site presented.

Commissioner Alvarado stated he understood Commissioner Thompson's concern, however, there was a reason the variance process existed.

Commissioner Sagar added she agreed with Commissioner Thompson, and supported the request.

Commissioner Dawson stated it was incumbent on the City to set the standard.

Commissioner Thompson made a motion to approve Item C (7), seconded by Commissioner Alvarado. The motion carried unanimously.

8. PUBLIC HEARING: Consider amending the City of Keller Unified Development Code (UDC), adopted by Ordinance No. 1746 dated July 7, 2015, by amending provisions related to carports to require a Specific Use Permit (SUP) in all residential zoning districts, located Article Eight-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-20-0007)

Planner Smithers stated that Keller's UDC addressed size, spacing, building materials and setbacks related to carports. In September 2019, the Texas Legislature prohibited cities from regulating building materials (including for accessory structures like carports). She said in August 2020, the Mayor shared concerns with Staff after observing some recent metal carport construction and asked how our existing regulations compared to other cities.

She said Staff had reached out to sister cities and the following were found:

- Most cities allow in residential zoning districts
- No city allows structures to be built within any easements
- Maximum lot coverage potentially limits the size of structures (especially on small lots)

- Structures must be 5-10 feet apart
- Most cities (including Keller) have design standards that require building material compatibility with the main structure (i.e. shingled roof, wrapped posts with brick/similar masonry products, etc.)
- Colleyville requires an SUP.

Planner Smithers stated on September 15, 2020, during a City Council work session, Staff presented the ordinances of surrounding cities related to carports and proposed text modifications to address concerns related to carports. City Council suggested Staff bring forward the proposed changes for consideration as an amendment to the UDC. Primarily, the change would require obtaining an SUP in order to construct a carport.

She said the proposed modifications included adding "SUP" to the zoning tables for all residential districts (SF-36, SF-30, SF-25, SF-20, SF-15, SF-12, SF-10, and SF-8.4). Staff suggested modifying UDC Section 8.06 (f) (1) and (2) – Building Design and Development Standards and suggested removing language in UDC Section 8.07 (C) (7) – Off-Street Parking and Loading Requirements.

Chairperson Ponder opened the Public Hearing.

No persons to speak.

Commissioner Apke made a motion to close the Public Hearing, seconded by Commissioner Thompson. The motion carried unanimously.

Commissioner Dawson asked Staff to consider how this information might be brought to the public.

CDD Smith stated the City would be launching a new website in a couple of weeks and that would be a great place to add the information.

Commissioner Dawson recommended a section of the website have newly updated information available.

Planner Smithers stated postings are made in the Fort Worth Star Telegram and e-notifications are sent when UDC text amendments are made.

Commissioner Thompson reiterated there were only three requests for carports on average per year.

Commissioner Osgood made a motion to approve Item C (8), seconded by Commissioner Alvarado. The motion carried unanimously.

Chairperson Ponder asked if there were any additional questions or comments.

Chairperson Ponder stated he appreciated Staff working to streamline the UDC. The City variance request was a great opportunity to look at it and ask why this was necessary.

Commissioner Thompson added that, as a City, we have a fiduciary responsibility to be as responsible as we can. It showed our citizens that there was a variance process and we are not immune to imperfect planning.

CDD Smith explained it was important for cities to be concerned with granting themselves variances. She added the City of Keller is close to build-out which would mean that more variances would be coming forward as redevelopment happens. She stated it was difficult to write ordinances that anticipate the challenges that arise in redevelopment scenarios. CDD Smith said the basis for granting variances need to consistent and applied across the board.

Commissioner Thompson stated there were a few generations of previous design, construction and use. He added the City would see a lot of variance requests in the future due to needing to update or tearing down and rebuilding. He added it was very important to articulate the reasoning of why support is given or denied.

Chairperson Ponder stated variances were not a bad thing. He explained they would be necessary due to not being able to write a code that would fit all issues.

CDD Smith stated she would get back to the Commission about the pre-meeting time for the next Planning and Zoning meeting.

D. ADJOURN

Chairperson Gary Ponder adjourned the meeting at 9:23 P.M.

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Chairperson

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Amy Botcher, Planning Technician