



# 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, November 10, 2020**

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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; Justin Wilkins, Plans Examiner; Melinda Hernandez, Code Compliance Coordinator; Sean Vreeland, Director of Information Technology and Amy Botcher, Planning Technician.

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

Planner Smithers gave a briefing from the November 3, 2020, City Council Meeting. Planner Smithers stated there had been three items that went to City Council. The first was a Special Use Permit (SUP) for Rahe and Associates located in Old Town Keller; second was an SUP for a mural for Two Brothers Winery; third was a request for four site plan variances for Keller Play and Stay. All items were unanimously approved.

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## C. WORK SESSION

CDD Smith gave a brief presentation proposing amendments to the Keller Unified Development Code fence regulations. She noted this would be a work session as well as a regular agenda item for this meeting. The following amendments were proposed:

### Corner lot fences - Section 8.11 (G)

- Currently, privacy fences must be set back to the building line. Also distinguishes between tubular and wood materials.
- Proposing to allow any building material and only set fences four feet from the property line. A corner vision clip will be required to ensure safety.

### Thoroughfare fences – Section 8.11 (I):

- Currently, fences along thoroughfares must be set back to the building line. Also distinguishes between tubular and wood materials.
- Proposing to allow any building material and only set fences on the property line IF the thoroughfare has not been built-out nor are there any plans to do so in the next five years.

### Proposed swing gate near drainage ways/easements – Section 8.11 (J):

- Swing gates may be required by the Public Works Director or his/her designee.
- Fences must comply with all other applicable Codes in this ordinance.

### Privacy fences next to passive parks– Section 8.11 (H) and (L):

- Finished side must face out
- Fences must comply with all other applicable Codes in this ordinance.

### Swimming pool barriers – Section 8.11 (M):

“Swimming pools barriers (fences) shall be no less than 48 inches above grade where measured on the side of the barrier that faces away from the pool or spa. Such height shall exist around the entire perimeter of the barrier and for a distance of 3 feet measured horizontally from the outside of the required barrier.”

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Drive Gates – Section 8.11 (O):

- This code amendment allows for drive gates in the smaller zoning districts (SF-15, SF-12, SF-10, and SF-8.4).
- The required inset of 25 feet from streets and 50 feet from thoroughfares would still apply.

Temporary construction fences – Section 8.11 (P):

- To ensure that such temporary fences set on property lines will not impede the vision of traffic.

Agricultural use fences – Section 8.11 (Q):

- Expand exceptions
- Clarify requirements for agricultural use fences

Fencing for Multi-family – Section 8.12 (A):

- Comply with fencing requirements such as material, height, etc. in Section 8.11 - Fencing Requirements in Single-Family.

Commissioner Dawson asked how a “thoroughfare” was defined.

CDD Smith responded that it was defined by the Comprehensive Thoroughfare Plan.

Commissioner Dawson asked what “tubular” fencing was.

CDD Smith stated tubular was wrought iron fencing and was not solid. Tubular fencing, under the current ordinances, could be closer to a thoroughfare, whereas privacy fencing had to be set back further. She noted both types would require vision clips.

Commissioner Dawson asked if this application would apply for stone or landscaping fencing.

CDD Smith said they proposed to permit the same materials as permitted in the rest of the code. She noted this would also make the application process easier for the residents.

Chairperson Ponder asked Staff for clarity in terms of who would be deciding whether a thoroughfare would be built-out in the next five years.

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CDD Smith stated herself and the Public Work Director would evaluate on a case by case basis to determine whether there would not be a road expansion within the next five years or any ramifications for the right-of-way.

Commissioner Thompson asked about the possibility of subgrade infrastructure.

CDD Smith responded it would not be allowed to be fenced in.

Chad Bartee, City Engineer, concurred.

CDD Smith explained the proposed changes to this code would allow for fences adjacent to thoroughfares to install a “rot board” or “kick board” at the bottom of the fence, rather than a bottom cap.

Melinda Hernandez, Code Compliance, noted that “kick board” and “rot board” were industry terms. This type of board would be easier to replace without impacting the integrity of the fence.

Commissioner Dawson asked if the kickboard would extend below the pickets and have the intention to rot and not affect the pickets.

Ms. Hernandez stated the pickets would be on top of the “kick board.”

Commissioner Thompson added that a “kick board” was pressure-treated wood.

Ms. Hernandez said the Ordinance did state “pressure-treated wood” was to be used.

Commissioner Dawson asked if there was any specification on a preservation material for environmental concerns.

CDD Smith responded there was not.

Commissioner Sagar questioned if a “kick board” was on the ground, wouldn’t it impede the flow of water.

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Chad Bartee, City Engineer, stated that swing gates may be required for site to site drainage if the open area beneath kickboard can't facilitate the drainage flow. He explained the swing gate was hinged, therefore if debris were to build up, it would lift and allow it to pass.

Commissioner Dawson asked if the top section could be a privacy fence on top of the tubular fencing.

CDD Smith responded yes.

Commissioner Sagar asked if there was a requirement for the gap between the "kickboard" and the ground.

CDD Smith explained the separation to the ground could be a problem for dog owners.

Ms. Hernandez stated the City currently required a cap in the Ordinance.

Commissioner Thompson stated the term "cap" was generally thought to mean "a covering".

CDD Smith stated Staff added the term "kickboard" for clarity, so it was not confused with "cap."

Commissioner Sagar stated it would be up to the individual homeowners as well as Public Works to determine how close to the ground their kickboards needed to be.

CDD Smith said that anytime there was lot to lot drainage, Public Works was involved in reviewing fence permits.

Commissioner Ponder asked if the application for a fence permit had space to notate whether the property was on a thoroughfare or a regular street.

Ms. Hernandez stated when the Ordinance was originally written, Council desired that fencing along thoroughfares be more "dressed up" for aesthetics.

Commissioner Dawson asked if it was defined by finished or unfinished view facing the street.

CDD Smith responded finished side to the street.

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Commissioner Osgood asked if the fence in the presentation was allowed. He added for clarity, he was addressing the covering of the hardware by boxing in the posts with wood.

CDD Smith stated it was not allowed currently but would be if Planning & Zoning passed the proposed amendments. She said the main purpose was to be able to have privacy fences along passive parks with the finished side out towards the parks.

Commissioner Thompson said he liked the example of the fence provided in the presentation. He asked if there was a provision to allow pickets on the tubular fencing.

CDD Smith stated there was not currently, but there would be if the proposal was adopted.

Commissioner Thompson asked if pickets would be allowed to be placed in between the tubular fencing.

CDD Smith responded there had been an example of this not long ago, and it was allowed.

Ms. Hernandez added the way the proposed Ordinance was written, it would allow privacy fences next to passive parks. She noted there could be use of any material already allowed in the code.

Commissioner Dawson asked if there was anything relative to signage on chain-link fences.

CDD Smith responded an amendment had previously been approved to allow the signage.

Commissioner Dawson asked if a banner could cover the whole fence.

CDD Smith responded yes.

Chairperson Ponder asked what it meant for a fence to be encroaching the right of way.

CDD Smith stated it occurred when temporary fencing was placed in the right-of-way and impeded vision for traffic.

Commissioner Sagar asked if temporary construction fences were for all residential districts and commercial properties.

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CDD Smith responded it was for residential subdivisions and commercial.

Commissioner Sagar stated she believed the verbiage should have been located in a different section of the UDC for clarity on the commercial fencing specifications.

CDD Smith stated it was not for individual lots. She noted it would be moved to section 8.12(H).

Commissioner Thompson asked if it was not too redundant, would it be possible to have it written in both sections.

CDD Smith agreed to add it to both sections.

CDD Smith stated “Temporary enclosures such as “round pens” and “bullpens” that are used for the purpose of temporary confinement of farm animals and are easily relocated within the property are not required to obtain a permit.” She added “Interior agricultural fences that separate pastures and paddocks do not require a permit.”

Commissioner Sagar stated she was having a hard time understanding the process for fences according to the verbiage. She said she could not support this with the current way it was written.

Commissioner Alvarado asked Staff what were the comparisons from other cities.

CDD Smith responded that fence ordinances were complicated for all cities, and different cities approached it differently.

Commissioner Osgood stated he would like to see Commissioner Sagar’s information. He also thanked CDD Smith for the education on several fence issues.

Commissioner Thompson voiced his appreciation for Commissioner Sagar’s work, and wanted to see her spreadsheet. He stated this issue affected two end users: the resident and the professional fence builders. He suggested tabling the proposal.

Commissioner Ponder stated it would be best to send a unanimously recommended document to City Council. He agreed with tabling the proposal.

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Commissioner Thompson said he was comfortable moving forward or tabling.

Commissioner Dawson stated he would also like to look over Commissioner Sagar's spreadsheet, and agreed with tabling the item.

Chairperson Ponder acknowledged the tremendous amount of time Staff had dedicated to this item; however, he agreed about tabling the proposal.

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

C (1) Discuss and Approve Planning and Zoning Commission Meeting Minutes for October 27, 2020.

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

There were no questions or comments.

C (2) PUBLIC HEARING: Request for PD Amendment Zoning change for 501 Rufe Snow.

Planner Smithers gave a brief presentation on Item C (2).

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

There were no questions or comments.

C (3) PUBLIC HEARING: Request for SUP for Cryo Nation at 1627 Keller Parkway.

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

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

There were no questions or comments.

C (4) PUBLIC HEARING- Request SUP for Windshields R Us at 112 Sports Parkway, Suite B.



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

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

There were no questions or comments.

C (5) PUBLIC HEARING- Request SUP for Landscape Systems at 1823 Keller Parkway.

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

Commissioner Osgood asked if there were other outstanding code issues at the site.

CDD Smith responded Staff had been working through the list of compliance issues with Landscape Systems. She stated the addition on the building is what triggered the fire sprinkler requirement. She noted the fire sprinkler application had been processed and approved by the Fire Marshal.

Commissioner Alvarado asked if it was appropriate for Landscape Systems to continue working without a fire sprinkler system installed due to working with wood, acrylics and other flammable material.

CDD Smith stated unless there was an immediate public health threat, they would be able to continue working. She added Landscape Systems had progressively been working towards compliance. She noted the Fire Marshal had agreed they could continue.

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

There were no additional questions or comments.

C (6) PUBLIC HEARING- Request SUP for outside storage at Complete Trailers at 1425 S. Main St.

Planner Smithers gave a brief presentation on item C (6).

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

There were no questions or comments.

C (7) PUBLIC HEARING- UDC Amendment related to fence requirements.

Planner Smithers notified the Commission that if they tabled this item, the next meeting would be December 8, 2020, when they could consider the item.

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

There were no questions or comments.

## **E. ADJOURN**

Chairperson Gary Ponder adjourned the Pre-Meeting at 6.59 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 27, 2020.](#)

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**Commissioner Apke made a motion to approve Item C (1), seconded by Commissioner Sagar. The motion carried unanimously.**

2. [PUBLIC HEARING: Consider a request for a Planned Development Amendment Zoning change from Planned Development – Commercial Planned Development – Commercial to amend the previously approved Planned Development by modifying the landscape buffer setback and the screening wall on the east side of 501 Rufe Snow Drive \(Account #42139218\), on 2.35-acre tract of land, located on the east side of Rufe Snow Drive, at the intersection of Rufe Snow Drive and Driscoll Place, being Lot 36, Block A, Trails at Bear Creek. ACLC Ventures, LLC, owner. Chris Anderson, Acres Development Corporation, Applicant. \(Z-20-0007\)](#)

CDD Smith stated on March 17, 2015, City Council approved the Planned Development (PD) for the Trails at Bear Creek per Ordinance 1736. The PD included a commercial corner lot at Rufe Snow and Driscoll Place. The PD-C was limited to sit-down restaurants only. June 22, 2015, the Final Plat for Trails at Bear Creek was approved by the Planning and Zoning Commission.

She said the Applicant was bringing forward a request to modify two PD requirements (screening wall and buffer) to address the site's significant topography, minimize tree loss, and enhance trail connections. If approved, the applicant would bring forward a Site Plan to Planning and Zoning Commission for recommendation and to City Council for final consideration per PD requirements.

CDD Smith stated the first PD amendment request was for a variance reducing the required thirty foot (30') landscape buffer to a minimum ten-foot (10') landscape buffer on the south side of Driscoll Place. She explained this reduction allowed parking within the area rather than removing mature trees along the north and east side of the property to accommodate parking.

CDD Smith added the Applicant proposed to enhance the ten-foot landscape buffer with continuous evergreen hedgerow near the existing screening wall; and evergreen trees spaced 35' to 50' on-center. She stated a variable-height retaining wall (one to four feet tall) plus a six-foot screening wall on top of the screening wall that already exists, providing nearly ten feet of screening in some areas. The proposed restaurant is downhill, enhancing the screening aspect.

This, plus the additional plantings, provide significant screening for the subdivision's homes to the south.

CDD Smith stated the second PD amendment proposed was to remove the 'Screening wall' requirement for a portion of the east side of the subject property. She said the applicant proposed to construct a screening wall from the southeast corner of the site to Driscoll Place and from the north side of Driscoll Place to the southern edge of the tree stand. From that point north, the applicant proposed to utilize a wrought-iron (or similar style) fence to minimize damage to the tree stand. There was no residence to the east of this area. However, the City trail did run along this area and benefitted from the trees.

Chairperson Ponder asked if the applicant had anything to add.

Chris Anderson, Applicant, stated he looked forward to the input from the Commission.

Chairperson Ponder opened the Public Hearing.

Armando Cabrall, 503 Myrtle Court, stated his residence was next to the screening wall. He expressed his concern regarding the construction and traffic bringing noise to their home. He opposed the project.

There were no other speakers either in favor or opposition.

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

Commissioner Thompson asked what the elevational fall was from south to north.

The Applicant responded it was approximately 25 feet.

Commissioner Thompson asked if it was a two or three story structure.

The Applicant stated it was two story with a clerestory.

Commissioner Thompson asked what the south elevation (height of the building closest to the residential area) was.

The Applicant stated it was proposed to be five-feet lower than the residential sight line. There would not be visibility into the residential area from the restaurant.

Commissioner Thompson asked about the impact of the lighting on the adjacent residential area.

The Applicant responded the north side lights would shine onto the building, and the south side lights would shine onto the existing screening wall. The Applicant also clarified the answer from the previous question that the building from the bottom to the highest point would be forty-seven feet.

Commissioner Thompson shared his concern on the impact of lighting to the subdivision. They said they would continue to work with the residents to reduce any impact.

Commissioner Alvarado stated the Applicant had gone through great lengths to make something unique and attractive for the community.

CDD Smith explained the zoning was not being changed. Restaurants were required by the PD, for the commercial parcel.

Commissioner Sagar added the PD for this location was specific to restaurants. She noted her support for the item.

Commissioner Dawson asked why there had been a reduction in the landscape buffer from 30-feet to 10-feet.

Planner Smithers explained the reduction provided parking without impacting the existing tree stand.

Commissioner Dawson stated his concern for this being a re-occurring theme (granting variances to site plans) and asked if it was the only alternative.

Planner Smithers responded each case was considered on an individual basis. She explained this design allowed for the trees near the trail on the slope to be kept instead of removed.

Commissioner Apke stated this was a nice development and asked how close 503 Myrtle was.

Planner Smithers responded the property backed up to the new development, but there was not parking in that area due to landscape.

Commissioner Apke asked Staff to confirm that the Applicant at 503 Myrtle would not be impacted by the parking.

Planner Smithers stated that was correct.

Commissioner Apke referred to a memo from Christopher Anderson to Planner Smithers. In the memo, it stated both requests were in response to saving as many mature trees as possible at the initiation of City Staff.

Planner Smithers stated that was correct.

Commissioner Maxwell said he loved the development and the proximity close to the City trail system.

Commissioner Osgood noted his support.

**Commissioner Alvarado made a motion to approve Item C (2), seconded by Commissioner Thompson. The motion carried unanimously.**

3. [PUBLIC HEARING: Consider a request for a Special Use Permit \(SUP\) for Cryo Nation, a proposed 'spa' use to occupy an appropriately 2,000 square-foot lease space within a 7,548 square-foot multi-tenant building, located on a 0.97-acre tract of land, located on the north side of Keller Parkway \(FM 1709\), approximately 430 feet northeast of the intersection of Chandler](#)

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[Road and Keller Parkway, being Lot 2, Block A, Cook Addition, zoned Retail ®, located at 1627 Keller Parkway, Suite 300. 1627 KP LTD, owner. Josh Brown, applicant. \(SUP-20-0021\)](#)

Planner Smithers stated in June 2020, the Applicant submitted a building permit for their business to be located in an approximately 2,000 square-foot lease space. In order to operate a spa use, the Applicant brought forward the requisite SUP request. Some of the non-medical services included Cryotherapy, Oxygen Bar, Cryo Lifting Facial, Cryo Slimming and Vitamin B injections.

Chairperson Ponder asked if the applicant had anything to add.

Josh Brown, Applicant, thanked everyone for their time and consideration. He explained they were a health and wellness facility that offered a modernized version of a fitness center.

Chairperson Ponder opened the Public Hearing.

There were no persons to speak.

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

Commissioner Alvarado wished the Applicant luck.

Commissioner Dawson asked what Cryo Therapy was and if it would fit under the “Spa” use definition.

Planner Smithers stated that they were not classified as a fitness center as that had a specific criteria that Cryo Nation’s business could not meet.

Commissioner Dawson asked the applicant what safety precautions would be used for the different devices.

The Applicant stated Cryo Therapy was a modernized version of an ice bath. The purpose of this was to minimize inflammation. He said their services have a wide range of clientele and did not have a down time. He stated the maximum duration of machine operation was no more than three minutes, with safety protocols in place and trained staff observing.

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Commissioner Dawson asked what governmental body was behind the staff certifications.

The Applicant stated it was not regulated by the FDA. He said the training the Staff received was whatever the manufacturer instructions provided.

Commissioner Dawson asked what temperature was used in the Cryo Therapy machine.

The Applicant stated it started at -166 degrees Fahrenheit. He explained the machine had the ability to be set at -292 degrees Fahrenheit; however, the average temperature would be -260 degrees Fahrenheit.

Commissioner Apke thanked the Applicant and stated it was a unique niche and he was looking forward to it.

Commissioner Maxwell thanked the Applicant for coming to Keller.

Commissioner Osgood asked who administered the vitamin B injections.

The Applicant responded the technicians were certified to give the injections.

**Commissioner Alvarado made a motion to approve Item C (3), seconded by Commissioner Thompson. The motion carried unanimously.**

4. [PUBLIC HEARING: Consider a request for a Specific Use Permit \(SUP\) for an Automobile Repair, Sales and Service use, for Windshields R Us, proposed in an approximately 2,500 square-foot space, on an approximately 1.67- acre property, located on the west side of Sports Parkway, approximately 250 feet southwest of the intersection of Keller Parkway and Sports Parkway, zoned Commercial \(C\), located at 112 Sports Parkway, Suite B. Mike Pennington, applicant. Tamara Thomas, owner. \(SUP-20-0020\)](#)

Planner Smithers stated in 2019, JRC Repair Services (Cell Phone Repair) was issued a Certificate of Occupancy for 112 Sports Parkway Suite B. The space had been vacated since August 2020.



She said the Applicant requested to utilize the approximately 2,500 square-foot space for an

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Automobile Repair, Sales and Service use for their business. Planner Smithers stated the

Applicant's services included window tinting, glass repair, video calibration, and storage for necessary equipment. Since the property was zoned Commercial, all Automobile Repair, Sales and Service uses required an SUP.

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

Tamara Thomas, building owner, stated she was in support of this business. She added her desire to lease to this company was partially because there would not be chemicals or paints kept on site.

Chairperson Ponder opened the Public Hearing.

There were no persons to speak.

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

Commissioner Sagar stated the proposed use was reasonable at the location.

Commissioner Dawson asked how the business would work.

The building owner stated most of the business was mobile, and the Applicant would go to the customers' homes. She also reiterated there would not be overnight parking.

**Commissioner Osgood made a motion to approve Item C (4), seconded by Commissioner Alvarado. The motion carried unanimously.**

5. [PUBLIC HEARING: Consider a request for a Specific Use Permit \(SUP\) for a Light Manufacturing use, for Landscape Systems, proposed in an approximately 984 square-foot space, on an approximately 5.28-acre property, located on the north side of Keller Parkway, approximately 100 feet northeast of the intersection of Keller Parkway and Bloomfield Drive, being Block A, Lot 1R, Sutton's Nursery, zoned Retail \(R\), located at 1823 Keller Parkway. Landscape Systems, applicant. Ruibal Properties, owner. \(SUP-20-0023\)](#)

Planner Smithers stated in 1996, City Council approved a resolution for a Site Plan for the Sutton Nursery Addition. On December 17, 2009, Landscape Systems was issued a Certificate of Occupancy. It was later found that the business required an SUP to operate as a nursery according to the then zoning regulations.

She said on May 4, 2010, Landscape Systems was granted an SUP unanimously by City Council to operate a nursery at the location. The applicant requested to utilize a 984 square-foot room within the main building to manufacture Live Edge Furniture that is primarily handcrafted from sliced slabs of wood. Since the property was zoned Retail, all Light Manufacturing uses required any applicant to go forward with an SUP.

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

Jeff Savera, representative, stated Landscape Systems was looking forward to continuing to produce quality furniture.

Chairperson Ponder opened the Public Hearing.

There were no persons to speak.

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

Commissioner Dawson asked if they were already manufacturing on site.

The Representative stated they were.

Commissioner Apke stated in the submission, it said only hand tools were being used.

The Applicant clarified that they did not use large heavy machinery, but did use some smaller electric tools.

Commissioner Apke asked if there were any flammable materials.

The Representative responded the cleaners such as mineral spirits would be the most volatile.

Commissioner Thompson asked if Landscape Systems had been working with the fire sprinkler companies.

The Representative responded they were in the process of getting plans approved and a sprinkler system installed.

Commissioner Thompson asked if they were doing all they could to get into compliance.

The Representative stated yes.

Commissioner Alvarado asked Landscape Systems to move the safety concerns along quickly.

Commissioner Sagar stated her support for the addition of the woodshop.

**Commissioner Osgood made a motion to approve Item C (5), seconded by Commissioner Thompson. The motion carried unanimously.**

6. [PUBLIC HEARING: Consider a request for a Specific Use Permit \(SUP\) to allow the use of “outside storage” for the business, Complete Trailers, located on a 1.72-acre-lot on the east side of South Main Street and Calverley Place, being A.W. Crisp, Jr Addition, Lot 1A and 2A, Block 1, at 1425 South Main Street zoned Commercial \(C\). Complete Trailers, applicant; Woodall Properties, owner. \(SUP-20-0022\)](#)

Planner Smithers stated in early 2018, United Rentals moved out of 1425 South Main Street. She said Staff met on May 2, 2019, with the property owner regarding the improvements required before a Certificate of Occupancy could be issued for any new business. Staff, the owner, and potential new tenants also met many times afterwards to explore different options and the site plan-related requirements.

She said as a result, Complete Trailers applied and was unanimously granted an SUP by City Council on August 6, 2019. If the use/business for which the SUP applied is not issued a building permit or certificate of occupancy within one year, the SUP automatically expires (Section 8.02 (F) (2) (d)). The SUP for this business expired on August 6, 2020.

Planner Smithers added on April 14, 2020, the Owner of the property brought forward a Site Plan Application with seven variances. The Planning and Zoning Commission tabled the application and encouraged the property owner to work with Staff to reduce the number of variance requests. The applicant brought back a Site Plan with two variances. This was approved unanimously by City Council on May 19, 2020.

The property owners and Complete Trailers were offered a Temporary Certificate of Occupancy if they would address all Fire Code violations within ninety (90) days. Complete Trailers had leased the building (though they were not occupying it) and were still working with the owners to renovate the site according to the Council-approved Site Plan. However, the following inspections are still needed before a Certificate of Occupancy can be issued: Gate Inspection, Fire Inspection, Site Final, and Building Final. Planner Smithers stated the SUP for this business expired on August 6, 2020, and the applicant was requesting a new SUP for the same business.

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

The Applicant stated this had been a long process, however he believed they had made progress working with Woodall Properties. He stated Complete Trailers met the requirements they had and the Woodall's (owners) were believed to have met theirs.

Chairperson Ponder opened the Public Hearing.

There were no persons to speak.

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

Commissioner Apke asked how confident the Applicant was in getting inspection approvals within the next year.

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The Applicant responded he hoped to have all approvals completed by January 1, 2021.

Commissioner Thompson stated his support.

Commissioner Alvarado asked the Applicant if he had an idea of when he would be ready for inspections.

The Applicant stated once the SUP was approved, he would like to get the inspections done as soon as possible.

Commissioner Alvarado asked the Applicant to confirm everything was ready for the inspections.

The Applicant responded there were still issues from Fire that the owner needed to address.

Planner Smithers stated the Applicant/Owners were still working on site plan issues.

Commissioner Alvarado asked if there were communication challenges.

CDD Smith responded Complete Trailers was in the best position to speak with the owner to facilitate the completion of the site improvements.

Commissioner Alvarado wished the Applicant luck.

Commissioner Sagar commended the Applicant on their perseverance and expressed her support.

Commissioner Dawson echoed the comments of Commissioner Sagar.

Commissioner Osgood questioned if there was anything the City could do to put pressure on the Owners to complete the upgrades.

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CDD Smith stated the property owners know what they have to do and have known what was to be done.

Commissioner Osgood wished the Applicant luck.

Chairperson Ponder asked CDD Smith if the Commissioners had the ability to suggest the SUP have an expiration date less than one year.

CDD Smith said she believed so. She stated the Commission could make the suggestion for City Council to adopt the recommendation.

Chairperson Ponder asked what time frame would be acceptable to the Applicant.

The Applicant responded he thought six months was a safe number, but he would also feel comfortable with less.

Commissioner Dawson asked if Commissioner Alvarado would consider amending his motion from one year to six months.

Commissioner Alvarado stated he was good with six months.

Chairperson Ponder noted the need to attach a deadline to the SUP.

CDD Smith stated the property owners' remaining issues were the parapet, brick pavers (working with TXDOT), and site final.

Commissioner Thompson questioned if six months was enough time considering the work with TXDOT.

CDD Smith responded the owners had been working with TXDOT, so six months should be sufficient.

**Commissioner Thompson made a motion to approve Item C (6) with a deadline of**

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**May 10, 2021; seconded by Commissioner Alvarado. The motion carried unanimously.**

7. [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. \(UDC-20-0008\)](#)

Community Development Director Smith stated the current Unified Development Code (UDC) fence regulations were amended in August 2019 and December 2019. She said after the proposed changes were implemented, contractors and residents still found the text was challenging to navigate because of duplications and lack of organization. In addition to addressing these issues, staff also proposed one change (requested by the City Council, driven by public inquiry) to address challenges for homeowners of corner lots related to setbacks and fence materials.

CDD Smith listed the following proposed Amendment: corner lots, fences along thoroughfares, “rot/kick boards”, swing gates next to drainage areas, privacy fences next to passive parks, swimming pool barriers, drive-gates, temporary construction fences, agricultural fences, MF fences and any unclear or repetitive language.

Chairperson Ponder asked Staff if the Commission had the ability to keep the public meeting open.

CDD Smith stated that was a possibility, however, it might have to be re-noticed if changes beyond the original proposal were made.

CDD Smith reminded the Commission if they decided to table this item, it would be necessary to re-notice for the next meeting.

Chairperson Ponder opened the Public Hearing.

There were no persons to speak.

**Commissioner Apke made a motion to close the Public Hearing, seconded by**

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**Commissioner Osgood. The motion carried unanimously.**

Chairperson Ponder thanked Staff for providing information on fences.

Commissioner Alvarado thanked Staff for their work in getting the information to the Commission ahead of the work session as the Commission had requested. He suggested Commissioners have their comments and critiques back to Staff ahead of the work sessions to allow Staff the ability to solve at least some of the issues ahead of the meetings.

Chairperson Ponder asked Commissioner Sagar to provide her updated information to staff, and for Staff to provide Commissioner Sagar's changes to the Commission.

CDD Smith explained the challenge postponing to the December 8, 2020, meeting would be noticing. She added Staff would work to try to meet that challenge. This would put the item in front of City Council in January 2021.

Chairperson Ponder asked why noticing would be an issue.

CDD Smith stated at this time Staff had not received suggestions from Commissioner Sagar and did not know how long the review changes would take nor whether any of the proposed changes were outside the scope of the original notice. She asked Commissioner Sagar provide Staff with her marked-up version.

Commissioner Sagar said she would send the suggestions but it would not be presented with the conventional "strike through." She also stated that the existing notice would cover what she was suggesting.

**Commissioner Sagar made a motion to table Item C (7) until December 8, 2020, seconded by Commissioner Dawson. The motion carried unanimously.**

CDD Smith reminded Commissioners there would not be a meeting on November 24, 2020.



Commissioner Sagar expressed her enthusiasm for the amount of retail and commercial items that had been on the agenda.

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Chairperson Ponder wished everyone a Happy Thanksgiving.

## **D. ADJOURN**

**Chairperson Gary Ponder adjourned the meeting at 9:00P.M.**

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Chairperson

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Amy Botcher, Planning Technician