



MEMORANDUM

Meeting Date: May 18, 2010

Item No. I-3

To: Dan O’Leary, City Manager

From: Tom Elgin, Community Development Manager

Subject: **PUBLIC HEARING: Consider an ordinance amending the City of Keller Unified Development Code, adopted by Ordinance No. 1435, dated November 18, 2008; by amending Article 8, Zoning/Districts, Section 8.04, Overlay and Special Districts, by adding a new Sub-Section D, U.S. Highway 377 North Overlay District, creating a new zoning overlay district to be known as the U.S. Highway 377 North Overlay District within the City’s Unified Development Code; providing a severability clause; providing a penalty; providing a conflicting ordinance clause; authorizing publication; and establishing an effective date. City of Keller, applicant. (UDC-10-0003)**

Action Requested: Conduct a public hearing and consider a recommendation for amendments to Section 8.04, Overlay and Special Districts, within the City’s Unified Development Code (UDC.) The purpose of this public hearing is to consider the creation of a new U.S. Highway 377 North Overlay District to implement the additional regulations within the U.S. Highway 377 North Corridor Plan. The proposed regulations amend the permissible uses of the underlying Commercial and Light Industrial zoning districts, and amend access, parking, landscaping, architecture, building materials, and other site and design standards.

Background: The City Council approved the U.S. Highway 377 North Corridor Plan at their July 21, 2009, meeting. (Please see the attached corridor plan and adopting resolution.) The plan examined the current state of development along the corridor, and, with input from landowners, developers, citizens, and city

officials, the plan provides recommendations for the future development of the U.S. Highway 377 Corridor.

The U.S. Highway 377 North Corridor Plan acknowledges the commercial nature and the existing zoning of the U.S. Highway 377 Corridor, but recommends prohibiting certain industrial and higher intensity commercial uses that would be incompatible with adjacent residential properties, and that would be detrimental to the attraction of higher quality, less intense retail and office commercial uses.

The U.S. Highway 377 North Corridor Plan contains recommendations for architectural, landscape, and streetscape standards to improve the aesthetics of the corridor and to create a unique, identifiable district. The entry features of the Marshall Ridge residential development, and their building materials, colors, and design, form the basis for the plan's recommendation for Prairie Style architecture in the corridor. The gateway signs, landscaping, lighting, and street furniture recommendations are intended to contribute to the Prairie Style architectural character.

With the expansion of U.S. Highway 377 to a four-lane divided roadway, and its limited median openings, the corridor plan recommends access management techniques to ensure adequate mobility and safe access to and from properties. The plan also recommends certain drainage, sanitary sewer, and other utility improvements for consideration.

The U.S. Highway 377 North Corridor Plan is a tool that can be used for assessing development proposals and rezoning requests. The plan, however, is not a regulating ordinance. The U.S. Highway 377 North Corridor Plan recommends that the Unified Development Code (UDC) be amended to create a U.S. Highway 377 North Overlay District.

**Overlay District
Description:**

An overlay zoning district is a special zoning district that is "overlaid" onto existing base zoning districts. It contains special provisions in addition to those of the base zoning districts. The provisions may be more or less restrictive than the base zoning districts. Overlay district provisions may modify allowable uses, bulk standards (e.g., setbacks, heights, lot coverage, etc.), building materials and design, and/or other requirements of the base zoning districts.

Overlay districts are commonly employed for historic preservation and natural resource conservation areas. They are also used to upgrade or enhance development along major transportation corridors and in areas in close proximity to mass transit stations.

The City of Keller currently has one (1) Overlay Zoning District, OTK (Old Town Keller Overlay District). The OTK District encompasses properties that have R (Retail) or C (Commercial) base zoning districts. Per the City of Keller's UDC, the purpose of the OTK District is to "ensure consistency in both the redevelopment of existing structures and in new developments" so the area will continue as a "historical focal point of the City with the character of a small Texas town of the early 1900's." The OTK District does not amend the uses of the R (Retail) or C (Commercial) districts, but it does have unique site design, building materials, sign, and other standards.

Analysis:

The proposed U.S. Highway 377 North Overlay District regulations amend the permissible uses of the underlying Commercial and Light Industrial Zoning Districts, and amend access, parking, landscaping, architecture, building materials, and other site and design standards. (Please see the attached proposed U.S. Highway 377 North Overlay District regulations.)

Following is a review of key issues within the proposed ordinance:

Limits of the U.S. Highway 377 North Overlay District

The U.S. Highway 377 North Corridor Plan ("the Plan") has defined boundaries. Generally, the area of the Plan included properties east and west of U.S. Highway 377 with Johnson Road as the southern boundary, Keller city limits as the northern boundary, and Katy Road as the western boundary. The eastern boundary was generally along the rear property lines of the parcels fronting the eastern side of U.S. Highway 377.

The area of the proposed U.S. Highway 377 North Overlay District retains the majority of the land area within the corridor plan limits. The Katy Road portion of the Plan's area, however, is not included in the overlay district. The abundance of nonconforming structures and uses, limited parcel sizes and depths, lack of sanitary sewer, and no direct access to U.S. Highway 377 are substantial existing barriers to further development and redevelopment in the Katy Road area. Staff feels that the additional aesthetic and use

standards of the proposed overlay district could be counterproductive for the Katy Road area in that they may discourage investment into this area. (Please see the map of the overall district boundary within the proposed U.S. Highway 377 North Overlay District regulations.)

Subdistricts

The Plan recommends four (4) subdistricts. The Katy Road Subdistrict is the portion of the Plan west of U.S. Highway 377. The Johnson Road Subdistrict encompasses the properties on the east side of U.S. Highway 377 from Johnson Road north to Jennifer Court. The Mount Gilead Subdistrict begins at Jennifer Court and includes the properties north to Mount Gilead Road. The remaining area, on the east side of U.S. Highway 377, from Mount Gilead Road to the Keller city limits is the Marshall Ridge Subdistrict.

The proposed U.S. Highway 377 North Overlay District recommends two (2) subdistricts. (Please see the maps of the two (2) subdistricts within the proposed U.S. Highway 377 North Overlay District regulations.) As discussed above, the Plan's Katy Road Subdistrict is not within the proposed overlay district. The remaining three (3) subdistricts were reviewed to determine the appropriate number of subdistricts. Due to similarities in the pattern and character of existing development, parcel sizes and depths, topography, residential adjacency, utility availability, access to U.S. Highway 377, and the types and mixes of land uses proposed by the Plan, Staff feels that it is appropriate to combine the Plan's Mount Gilead and Marshall Ridge Subdistricts into a singular Marshall Ridge Subdistrict. Staff concurs with the Plan recommendation that the Johnson Road Subdistrict be a distinct subdistrict with unique standards to serve as a cohesive, transitional area between the Main Street Subdistrict of the Old Town Keller Overlay District and the Marshall Ridge Subdistrict of the U.S. Highway 377 North Overlay District.

Vision

The Plan envisions multiple uses unified with common elements including consistency in building materials, decorative street lighting, signage, and landscaping.

The proposed U.S. Highway 377 North Overlay District contains standards that are unique to each subdistrict and standards that are common to both subdistricts. To provide a transition from the adjacent Old Town Keller Overlay District, site layout, building design and street lighting within the Johnson Road Subdistrict conform to the standards of the

Main Street Subdistrict of the Old Town Keller Overlay District. The Marshall Ridge Subdistrict has unique site layout, building design, and street lighting standards that reflect the modern Prairie Style aesthetic of the Plan. Landscaping, access management, and parking standards are the same for both subdistricts to provided the intended unity of the U.S. Highway 377 North Overlay District.

Architectural Character

The Plan recommends that the corridor have a distinctive identity to distinguish the corridor from other areas of Keller and surrounding communities. Prairie Style architecture is suggested. The Marshall Ridge development is the basis for this recommendation, and its many site amenities reflect this style. Characteristics of Prairie Style architecture include:

- Building form is long and low building form, typically one or two-story, with strong horizontal lines
- Buildings have low-pitched roofs with broad, overhanging eaves
- Windows, in geometric shapes, are often arranged in ribbons to emphasize horizontality of overall design
- Building elevations employ wide use of stucco and natural materials, especially wood and stone
- Exterior color palette is earth tones

The Plan does not recommend a strict implementation of Prairie Style architecture. Instead, it recommends a modern, contemporary version. Contemporary interpretations of Prairie Style architecture maintain the overall form, color, and materials, but introduce bold colors and/or metal finishes, and add some ornamentation.

The U.S. Highway 377 North Overlay District proposes standards that implement modern, contemporary Prairie Style architecture for the Marshall Ridge Subdistrict only. Staff feels that this architecture is inconsistent with existing development and the smaller land parcels of the Johnson Road Subdistrict, and that the suitable building form for this area can be better met by using the criteria of the Main Street Subdistrict of the Old Town Keller Overlay District.

Landscaping

The Plan recommends that the corridor “be heavily landscaped” and calls for large landscape setbacks with street trees (canopy trees), ornamental trees, and shrubs and perennials screening parking.

The U.S. Highway 377 North Overlay District proposes landscaping standards that differ from the Plan. “Heavy landscaping” with a regimental tree planting scheme is inconsistent with the organic nature of Prairie Style architecture. The overlay district landscape standards includes ornamental grasses and Buffalo grass (turf) as acceptable plant materials and requires canopy trees to be arranged in random, free-form, and/or clustered arrangements as would occur in natural prairies.

Streetscape

The Plan calls for a consistent theme in decorative elements, such as street and parking lot lighting and street furniture, way-finding signage, and free-standing and building signage.

Given the high travel speeds of this section of the corridor, the distinguishable characteristics are the larger scale building architecture and materials, site landscaping, and site and parking lot lighting. Therefore, the U.S. Highway 377 North Overlay District contains standards for these features. Smaller scale way-finding signage and street furniture are indistinguishable at high travel speeds; therefore, the overlay district does mandate the use of features. The general sign regulations of the Unified Development Code are appropriate for the corridor, so no changes are proposed for the overlay district. (Please see examples of site and parking lot lighting and the maps of the two (2) subdistricts within the proposed U.S. Highway 377 North Overlay District regulations.)

Land Uses

The Plan recommends that certain land uses of the base zoning districts – Commercial, and Light Industrial – not be allowed in the U.S. Highway 377 North Overlay District. Accordingly, the overlay district proposes to prohibit the following uses: Cemetery or Mausoleum (new or expansion); Driving School; Fraternal Clubs, Lodges, Sororities and Fraternities, etc.; Freight or Truck Terminal Yard; Heavy Machinery Sales and Service; Heavy Vehicle Storage; Metal Recycling Collection Center; Monuments and Headstone Sales with Outside Storage; Newspaper Printing; Portable Building Sales with Outside Storage; Veterinarian Office with

Outside Pens; and Wholesale Distribution Center and Warehousing. (Please see the attached Land Use Chart that shows uses currently allowed, land use changes proposed by the U.S. Highway 377 North Corridor Plan, and land use changes proposed by the U.S. Highway 377 North Corridor Overlay District.)

The overlay proposes to permit the following additional uses by right: Department Store, Grocery Store or Food Market, Minor Medical Emergency Clinics, Public Parking Garage, and Drive-Through/Drive-In Restaurant.

Incentives

The Plan does not address incentives for new development within the U.S. Highway 377 North Overlay District. The Plan does recommend, however, that existing overhead utilities along U.S. Highway 377 and Mount Gilead Road be placed underground. The overlay district permits reduction in the front building setback and front landscape buffer as incentives to place utilities underground along these thoroughfares. The overlay district offers an additional incentive for energy efficient building construction. Buildings that exceed the minimum energy performance requirements of the 2006 International Building Code by fifteen percent (15%) may reduce the amount of required parking spaces by fifteen percent (15%).

Keller Master Plan:

The Land Use Element of the Keller Master Plan is intended to guide and direct land development and redevelopment within the community. The Land Use Element contains broad community goals and objectives, and goals and objectives for Keller's commercial corridors. The U.S. Highway 377 North Overlay District furthers the following goals and objectives of the Land Use Element of the Keller Master Plan:

- Maintain a thoroughfare system which protects residential areas and the scenic character of the community, without sacrificing the ability to promote sound economic development.
- Seek to attract high quality, non-residential uses which will be an aesthetic asset to the community, as well as add to the tax base.
- Encourage high-quality, compatible development within Keller's corridors.

- Buffer uses with landscaping to complement building design, and enhance the attractiveness of the corridor.
- Ensure a unified appearance and enhance the attractiveness of Keller's corridors.

The U.S. Highway 377 Overlay District, therefore, is consistent with the Land Use Element of the Keller Master Plan.

Public Input:

Substantial effort was made to inform the public, property owners within the overlay district, and property owners within two hundred feet (200') of the overlay district throughout the process.

- Letters were mailed to property owners on January 22, 2010, explaining the reason for the overlay district, the process being used to adopt the overlay district, the City website address for the overlay district project, and Staff contact information.
- The first draft of the proposed overlay district was posted on the City's website on March 22, 2010.
- On March 22, 2010, letters were sent to property owners within the district, and postcards were sent to Town Hall Public Input Meeting adjacent property owners alerting them of a on April 12, 2010.
- Property owners receiving letters also received a copy of the latest draft and maps of the proposed overlay district. The letters and postcards also contained the tentative public hearing dates for Planning and Zoning Commission and City Council consideration of the overlay district.
- A public meeting was held on April 12, 2010, and several property owners attended and offered comments.
- Notice of the public hearing to consider adoption of the proposed overlay district was published in the *Fort Worth Star Telegram* and the *Keller Citizen*. Staff has had phone call discussions with two (2) landowners - Samantha Springs and Hanover Property Company – about the proposed overlay district. Notification of a public hearing was also published in the local newspaper (*Fort Worth Star-Telegram*) fifteen days (15) prior to the scheduled City Council meeting date. One (1) letter of conditional support was received from

Hanover Property Company (Engler Acquisition Partners).

**Citizen Input/
Board Review:**

The Planning and Zoning Commission held a public hearing and considered this amendment to the text of the UDC on April 26, 2010 and recommended approval by a vote of 4-0 (Mr. Cox, Mr. Reaves, and Mr. Truby absent) with the following recommendations:

1. "Appliance Rental" use shall be permitted with approval of a SUP rather than by right.
2. "Restaurant - Drive-Through or Drive-In" use shall be permitted with approval of a SUP rather than by right.
3. "Mini-Warehouse – Self Service" use shall be permitted with approval of a SUP rather than by right.
4. "Studio (Photography)" use shall be permitted by right rather than with approval of a SUP.
5. Solar panels shall be allowed by right.

Engler Settlement:

The majority of the northern portion of the proposed Marshall Ridge Subdistrict is within the land area of the Engler Settlement. This property is owned by Engler Acquisition Partners, Ltd. Please note that, as a result of the Engler Settlement, an overlay district, or any form of rezoning, cannot be implemented to this area without the landowner's consent and endorsement.

Engler Acquisition Partners, Ltd., has been involved with the proposed overlay district and rezoning. (Please see the attached letter from Engler Acquisition Partners, Ltd.). Per their letter, they are in favor of the proposed overlay district standards as drafted by Staff. Engler Acquisition Partners, Ltd. disagrees with the Planning and Zoning Commission's recommendations that "Appliance Rental" use and "Restaurant - Drive-Through or Drive-In" require approval of a SUP rather than permitted by right. Engler Acquisition Partners, Ltd., concurs with the Commission's recommendations that "Mini-Warehouse – Self Service" use and Solar Panels be allowed right. Subject to these conditions, Engler Acquisition Partners supports the creation of the U.S. Highway 377 North Overlay District and the rezoning of their property to be included within the overlay district.

Summary:

The intent of the proposed U.S. Highway 377 North Overlay District is to implement the recommendations of the adopted

U.S. Highway 377 North Corridor Plan. The Overlay District regulations amend access, parking, landscaping, architecture, building materials, and other site and design standards. Some standards are unique to each subdistrict. Other standards are common to both subdistricts and establish a unifying theme. The Overlay District regulations amend the permissible uses of the underlying Commercial and Light Industrial zoning districts. Some uses are prohibited while others are subject to additional review through the Specific Use Permit approval process. The intent of the use amendments are to direct the corridor's future development to be consistent with the vision of the U.S. Highway 377 North Corridor Plan. The U.S. Highway 377 North Overlay District is consistent with the Land Use Element of the Keller Master Plan.

Alternatives:

The City Council has the following alternatives when considering an amendment to the text of the UDC application:

- Include the Engler Settlement area within the proposed U.S. Highway 377 North Overlay District and approve as noted in the letter from Engler Acquisition Partners, Ltd.
- Approve with additional condition(s); (Please note that Engler Acquisition Partners, Ltd., would have to concur with the additional conditions or the Engler Settlement area has to be removed from within the proposed U.S. Highway 377 North Overlay District.)
- Approve or deny each amendment independently; (Please note that Engler Acquisition Partners, Ltd., would have to concur with any amendment or the Engler Settlement area has to be removed from within the proposed U.S. Highway 377 North Overlay District.)
- Tabling the agenda item to a specific date with clarification of intent and purpose
- Denial

Supporting Documents:

Supporting documents include:

- Minutes of the Planning and Zoning Commission, dated April 26, 2010
- Resolution No. 2848, Adopted July 21, 2009 including a copy of the U.S. Highway 377 North Corridor Plan
- Comparative Land Use Chart
- Letter from Engler Acquisition Partners, Ltd. (Hanover Property Company)
- Proposed Ordinance
- Exhibit "A" - Proposed U.S. Highway 377 North Overlay District Regulations including:

- Map of the Overall U.S. Highway 377 North Overlay District Boundary
- Map of the Johnson Road Subdistrict Boundary
- Map of the Marshall Ridge Subdistrict Boundary
- Site and Parking Lot Lighting

Staff

Recommendation: Staff recommends approval of the U.S. Highway 377 North Overlay District with the conditions agreed to by Engler Acquisition Partners, Ltd. Accordingly, Staff recommends approval as submitted with the following conditions:

1. “Mini-Warehouse – Self Service” use shall be permitted with approval of a SUP rather than by right.
2. Solar panels shall be allowed by right.

MINUTES OF THE REGULAR MEETING
PLANNING AND ZONING COMMISSION

April 26, 2010

A. CALL THE MEETING TO ORDER –Chairman, Jay Brown

A regular meeting of the City of Keller Planning and Zoning Commission was called to order by Chairman Jay Brown with the following members present:

Doug Miller
Leslie Sagar
John Hoffmann

Commissioners Dan Truby, Arelyn Cox, and Gary Reaves were absent. Staff present included Tom Elgin, Community Development Manager, Poornima Srinarasi, Planner I; Douglas McDonald, Planner I; and Keith Fisher, City Engineer.

B. MINUTES

1. Consider approval of the minutes for the meeting of April 12, 2010.

Ms. Sagar motioned to approve the minutes for the meeting of April 12, 2010 as presented. Mr. Hoffmann seconded and the motion carried unanimously (4-0; Truby, Cox, Reaves absent).

C. OLD BUSINESS

1. None.

D. NEW BUSINESS

1. Consider a recommendation for a variance to Article 8, Section 8.03 (P.4.k.2.g) – Town Center Zoning District and Article 9, Section 9.04 (J.10.b) – Sign Regulations for Liberty Mutual, a 3,182 square foot insurance agency to be located within the Frost Bank Professional Center, a 23,038 square foot multi-tenant office building, located on the 1.97-acre lot on the southwest corner of Keller Parkway (FM 1709) and Country Brook Lane, at 1240 Keller Parkway (FM 1709), being Lot 2, Block B, Keller Town Center and zoned TC (Town Center). Threshold Development Co., owner. Casteel and Associates, Inc., applicant/developer. (Case # UDC-10-0004)

Ms. Poornima Srinarasi, Planner I, gave an overview of the project and staff's recommendation. Mr. Warren Casteel, applicant, was present at the meeting to address the Planning and Zoning Commission and to answer questions. Discussion regarding this project included the amount of walk-in clients for the business, the amount of available lease space in the building, and the number of signs that will potentially be erected on this building. Mr. Hoffmann motioned to recommend denial for the sign variances for Liberty Mutual (UDC-10-0004). Ms. Sagar seconded and the motion carried (3-1; Truby, Cox, Reaves absent) with the following vote:

Ayes – Hoffmann, Sagar, Brown
Noes - Miller

2. **PUBLIC HEARING:** Consider amendments to Section 8.04, Overlay and Special Districts, within the City's Unified Development Code. The purpose of this public hearing is to consider the creation of a new U.S. Highway 377 North Overlay District. The intent of the U.S. Highway 377 North Overlay District is to implement the recommendations within the U.S. Highway 377 North Corridor Plan. The proposed regulations amend the permissible uses of the underlying Commercial and Light Industrial zoning districts, and amend access, parking, landscaping, architecture, building materials, and other site and design standards. City of Keller, applicant. (Case # UDC-10-0003)

Mr. Tom Elgin, Community Development Manager, gave an overview of the development process and time frame involved in the creation of the U.S. Highway 377 North Overlay Zoning District. The topics for the overview included boundary and development standards for the proposed subdistricts; base zoning districts and the uses allowed; general standards for the cross-access connections between developments, parking and landscaping requirements, architectural characteristics; and development incentives.

3. **PUBLIC HEARING:** Consider a recommendation to rezone properties with existing C (Commercial) and LI (Light Industrial) zoning to Commercial-U.S. Highway 377 North Overlay District and Light Industrial-U.S. Highway 377 North Overlay District. The properties are located on the east side of U.S. Highway 377 from Johnson Road north to the southern rights-of-way line of Marshall Ridge Parkway. The properties encompass approximately 148 acres of land out of the Richard F. Allen Survey, Abstract No. 29, Gustavus Gilbert Survey, Abstract No. 577, and the J.V. Roberts Survey, Abstract No. 1305. City of Keller, applicant. (Case # Z-10-0001)

Mr. Tom Elgin, Community Development Manager, gave an overview of the boundary of the proposed U.S. Highway 377 North Overlay District in general and the boundaries of the proposed Johnson Road subdistrict and the Marshall Ridge subdistrict. Mr. Brown opened the public hearing for both items D-2 and D-3. Frank Bourland, 1434 Hidden Oaks Circle, Corinth, Texas, had concerns regarding the ability to sell his property and the removal of the Light Industrial zoning district. Ms. Michelle Moore, 144 Mount Gilead Road, Keller, had concerns regarding noise that the new developments would cause and suggested that the buffer requirements between the proposed overlay district and the existing residential subdivisions to the east be increased. Ms. Diane Norrel, 121 Johnson Road, Keller, had a question on how the proposed overlay district would affect her property. Mark Keel, 550 North Main Street, was in opposition of this proposal and had concerns regarding permitted uses, the resale of his property in the future and the access management standards of the overlay district. Mr. Dick Gibson, 1100 North Main Street, Keller, was in opposition of this proposal. Mr. Dave Phillips, 1355 Melody Lane, Keller, gave the history of the Light Industrial zoned property within the Johnson Road subdistrict. Majority of the properties within the Johnson Road subdistrict is currently owned by a single owner, the owner of Samantha Springs. Mr. Phillips wanted to clarify if the freight truck traffic required for transporting water and the water bottling plant were allowed or prohibited uses within the proposed overlay district. Mr. Phillips explained the concept of flex buildings and that allowing retail, office, light industrial, and light manufacturing uses to co-exist would keep existing businesses in Keller and also attract new businesses to choose Keller over other neighboring cities. Mr. Phillips summarized his comments by saying that water bottling plant, truck terminals, and flex buildings should be permitted uses within the Johnson Road

subdistrict and also that the Planning and Zoning Department and the Economic Development Department work closely together.

Ms. Sagar motioned to close the public hearing for items D-2 and D-3. Mr. Miller seconded and the motion carried unanimously (4-0; Truby, Cox, Reaves absent).

Minutes of the
Planning and Zoning Commission

April 26, 2010
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Mr. Tom Elgin, clarified that U.S. Highway 377 was a limited access highway controlled by the Texas Department of Transportation (TxDOT). Mr. Elgin stated that the access management plan within the U.S. Highway 377 North Overlay District reiterated the existing requirement within the Unified Development Code (UDC). The Planning and Zoning Commission and City Council could consider access related issues on a case-by-case basis. Discussion was held on signalization of the Mount Gilead Road and the U.S. Highway 377 intersection by TxDOT in the near future. Discussion was held on the 30-foot landscape buffer and 6-foot masonry screening wall requirement between commercial and residential developments which would dissipate the noise to a certain extent. Discussion was held regarding truck terminals and any truck traffic associated with the bottling plant would be considered as truck traffic necessary for the operation of the business. Discussion was held on whether creating a new use category for bottling water plant or to classify this use under one of the existing uses in the Light Industrial zoning district. Light manufacturing and industrial manufacturing wholly enclosed within a building are permitted by right within the Light Industrial zoning district. Discussion was held on uses being expanded in general within the Commercial zoning and also regarding the zoning change process to change the zoning of a property within the proposed overlay district. Discussion was held on uses to be allowed by right and used to be allowed by a specific use permit; uses permitted and prohibited; parking standards; and materials for exterior elevations of buildings. Mr. Miller motioned to recommend approval of item D-2 with the following recommendations:

- 1) To change the use "Restaurant, Drive-thru/Drive-in" from "P" Permitted by right to "SUP" Specific Use Permit.
- 2) To change the use "Appliance Rental" from "P" Permitted by right to "SUP" Specific Use Permit.
- 3) To change the use "Mini-warehouses (self service) from "P" Permitted by right to "SUP" Specific Use Permit
- 4) To change the use "Studio (Photography) from "SUP" Specific Use Permit to "P" Permitted by right.
- 5) Solar panels are allowed by right.

Ms. Sagar seconded and the motion carried unanimously (4-0; Truby, Cox, Reaves absent).

Mr. Miller motioned to recommend approval of item D-3.

Ms. Sagar seconded and the motion carried unanimously (4-0; Truby, Cox, Reaves absent).



MEMORANDUM

Meeting Date: May 18, 2010

Item No. I-4

To: Dan O'Leary, City Manager

From: Tom Elgin, Community Development Manager

Subject: **PUBLIC HEARING:** Consider an ordinance approving a zoning change from C (Commercial) and LI (Light Industrial) to Commercial-U.S. Highway 377 North Overlay District and Light Industrial-U.S. Highway 377 North Overlay District for approximately 148 acres of land out of the Richard F. Allen Survey, Abstract No. 29, Gustavus Gilbert Survey, Abstract No. 577, and the J.J. Roberts Survey, Abstract No. 1305, and are more particularly known as follows: Johnson Road Subdistrict: Richard F. Allen Survey, Abstract No. 29, Tract 5B04; Lots 1A, 2, 3, 4, and 5, Block 1, and Lots 1A, 2, 3, 4, and 5, Block 2, Keller Business Park Addition; Lot 1A, Block A, Keller Church of God Addition; Lots 1A2, 1B, 1R1, and 1R2, Block 1, L.L. McDonnell Addition; Lots 1A and 1B, Block A, Samantha Springs Addition; and Lots 1A1, 1B, 1C, and 1D, Block 1, Sutton Industrial Addition. Marshall Ridge Subdistrict: Richard F. Allen Survey, Abstract No. 29, Tracts 3A, 3A01 (Westernmost 350 feet), 3A01B, 3A01D, 4, 4C, 4C01, 4C2, 4C2A, 4C03, and 4D; Gustavus Gilbert Survey, Abstract No. 577, Tract 1C; Lot 1, Block NN, and Lot 1, Block OO, Ridge Point Parkway Addition; J.J. Roberts Survey, Abstract No. 1305, Tracts 1A1, 1A01A, and 3B; and Lot 1A1, Block 1, West Fork Addition (Keller), located on the east side of U.S. Highway 377 from Johnson Road north to the southern right-of-way line of Marshall Ridge Parkway. City of Keller, applicant. (Z-10-0001)

Action Requested: Conduct a public hearing and consider a recommendation to rezone properties with existing C (Commercial) and LI (Light Industrial) zoning to Commercial-U.S. Highway 377 North Overlay District and Light Industrial-U.S. Highway 377 North

Overlay District. The properties encompassing approximately 148 acres.

**Property
Description:**

The U.S. Highway 377 North Overlay District consists of properties on the east side of U.S. Highway 377. Johnson Road is the southern boundary, and the southern rights-of-way line of Marshall Ridge Parkway is the northern boundary. The eastern boundary is generally along the rear property lines of the parcels fronting the eastern side of U.S. Highway 377. (Please see the attached map of the U.S. Highway 377 North Overlay District.)

The U.S. Highway 377 North Overlay District contains two (2) subdistricts – Johnson Road and Marshall Ridge. (Please see the attached maps of the Johnson Road and Marshall Ridge Subdistricts.) The common boundary between the two (2) subdistricts is the northern property line of the lots that front a private driveway. This common boundary is approximately 1,945 feet north of Johnson Road. The Johnson Road Subdistrict consists of all properties south of the common boundary, and the Marshall Ridge Subdistrict includes all properties north of the common boundary.

**Property
Owners:**

There are multiple property owners within the U.S. Highway 377 North Overlay District. The names of the property owners are labeled on the attached maps of the Johnson Road and Marshall Ridge Subdistricts and were extracted from the Tarrant Appraisal District tax records.

Applicant:

City of Keller

Current Zoning:

C (Commercial) and LI (Light Industrial)

Proposed Zoning:

Commercial-U.S. Highway 377 North Overlay District and Light Industrial-U.S. Highway 377 North Overlay District

Background:

City Council approved the U.S. Highway 377 North Corridor Plan at their July 21, 2009, meeting. The plan examined the current state of development along the corridor, and, with input from landowners, developers, citizens, and city officials, the plan provides recommendations for the future development of the U.S. Highway 377 Corridor.

The U.S. Highway 377 North Corridor Plan acknowledges the commercial nature and the existing zoning of the U.S. Highway 377 Corridor, but recommends prohibiting certain industrial and higher intensity commercial uses that would be incompatible with adjacent residential properties, and that

would be detrimental to the attraction of higher quality, less intense retail and office commercial uses.

Analysis:

This zoning action applies the U.S. Highway 377 North Overlay district regulations to the existing base C and LI Zoning Districts. The overlay district contains further regulations in addition to those of the base zoning districts. The proposed U.S. Highway 377 North Overlay District regulations amend the permissible uses of the underlying Commercial and Light Industrial zoning districts, and amend access, parking, landscaping, architecture, building materials, and other site and design standards. (Please see the attached proposed U.S. Highway 377 North Overlay District regulations.)

Future Land Use Plan:

The Future Land Use Plan designates the area within the proposed U.S. Highway 377 North Corridor Overlay District to be developed as (R) Retail and (I/C) Industrial/Commercial.

Surrounding Zoning & Land Uses:

North: The properties to the north on the north side of Marshall Ridge Parkway are zoned C (Commercial) and are used as a gas well, open space for the Marshall Ridge Homeowners Association, and future church site.

South: The properties to the south are zoned R-OTK (Retail – Old Town Keller Overlay District) and C-OTK (Commercial – Old Town Keller Overlay District) are developed as retail and commercial uses.

East: The properties to the east are zoned SF-LD (Single Family Residential – Low Density – 36,000 square-foot lots), SF – MD (Single Family Residential – Mixed Density), SF-15 (Single Family Residential – 15,000 square-foot lots), SF-10 (Single Family Residential – 10,000 square-foot lots), PH-6.5 (Patio Home Residential – 6,500 square-foot lots) and PH (Patio Home Residential - 5,000 square-foot lots). The properties are partially developed as single-family residential uses; however, some of the undeveloped parcels are being used for agricultural purposes.

West: The northern portion of the western boundary is within the City of Fort Worth. Most of these properties have been developed as residential and industrial uses. The southern portion of the western boundary is within the City of Keller and the properties are zoned C (Commercial). Some of these properties have not

been developed; others are developed as residential and industrial uses.

Public Input: On April 16, 2010, as required by State law, the City mailed out letters of Notifications for a Public Hearing to property owners located within the proposed U.S. Highway 377 North Overlay District and to property owners within two hundred feet (200') of this subject property. Staff has also posted three (3) Public Hearing signs along U.S. Highway 377. No email responses or letters have been received. Notification of a public hearing was also published in the local newspaper (*Fort Worth Star-Telegram*) fifteen days (15) prior to the scheduled City Council meeting date.

**Citizen Input/
Board Review:** The Planning and Zoning Commission held a public hearing and considered this amendment to the text of the UDC on April 26, 2010, and recommended approval by a vote of 4-0 (Mr. Cox, Mr. Reaves, and Mr. Truby absent) as submitted.

Engler Settlement: The majority of the northern portion of the proposed Marshall Ridge Subdistrict within the land area of the Engler Settlement. This property is owned by Engler Acquisition Partners, Ltd. Please note that, as a result of the Engler Settlement, an overlay district, or any form of rezoning, cannot be implemented to this area without the landowner's consent and endorsement.

Engler Acquisition Partners, Ltd., has been involved with the proposed overlay district and rezoning. (Please see the attached letter from Engler Acquisition Partners, Ltd.). Per their letter, they are in favor of the proposed overlay district standards as drafted by staff. Engler Acquisition Partners, Ltd. disagrees with the Planning and Zoning Commission's recommendations that "Appliance Rental" use and "Restaurant - Drive-Through or Drive-In" require approval of a SUP rather than permitted by right. Engler Acquisition Partners, Ltd., concurs with the Commission's recommendations that "Mini-Warehouse – Self Service" use and Solar Panels be allowed by right. Subject to these conditions, Engler Acquisition Partners supports the creation of the U.S. Highway 377 North Overlay District and the rezoning of their property to be included within the overlay district.

Summary: This item proposes to rezone land to apply the additional regulations of the U.S. Highway 377 North Overlay District. The properties are located on the east side of U.S. Highway 377 from Johnson Road north to the southern rights-of-way line of Marshall Ridge Parkway, and encompass approximately 148 acres of land. Approval of this item would

rezone properties with existing C (Commercial) and LI (Light Industrial) zoning to Commercial-U.S. Highway 377 North Overlay District and Light Industrial-U.S. Highway 377 North Overlay District, respectively.

Alternatives:

The City Council has the following alternatives when considering a zoning change application:

- Include the Engler Settlement area within the proposed U.S. Highway 377 North Overlay District and approve as noted in the letter from Engler Acquisition Partners, Ltd.
- Recommend approval with additional condition(s); (Please note that Engler Acquisition Partners, Ltd., would have to concur with any conditions or the Engler Settlement area has to be removed from within the proposed U.S. Highway 377 North Overlay District.)
- Tabling the agenda item to a specific date with clarification of intent and purpose
- Denial

Attachments:

Supporting documents include:

- Minutes of the Planning and Zoning Commission, dated April 26, 2010
- Maps of Property
 - U.S. Highway 377 North Overlay District
 - Johnson Road Subdistrict
 - Marshall Ridge Subdistrict
- Letter from Engler Acquisition Partners, Ltd. (Hanover Property Company)
- Proposed Ordinance
- Exhibit "A" – Legal Description of Subdistrict

Staff

Recommendation:

Staff recommends approval as submitted in accordance with the conditions agreed to by Engler Acquisition Partners, Ltd.

MINUTES OF THE REGULAR MEETING
PLANNING AND ZONING COMMISSION

April 26, 2010

A. CALL THE MEETING TO ORDER –Chairman, Jay Brown

A regular meeting of the City of Keller Planning and Zoning Commission was called to order by Chairman Jay Brown with the following members present:

Doug Miller
Leslie Sagar
John Hoffmann

Commissioners Dan Truby, Arelyn Cox, and Gary Reaves were absent. Staff present included Tom Elgin, Community Development Manager, Poornima Srinarasi, Planner I; Douglas McDonald, Planner I; and Keith Fisher, City Engineer.

B. MINUTES

1. Consider approval of the minutes for the meeting of April 12, 2010.

Ms. Sagar motioned to approve the minutes for the meeting of April 12, 2010 as presented. Mr. Hoffmann seconded and the motion carried unanimously (4-0; Truby, Cox, Reaves absent).

C. OLD BUSINESS

1. None.

D. NEW BUSINESS

1. Consider a recommendation for a variance to Article 8, Section 8.03 (P.4.k.2.g) – Town Center Zoning District and Article 9, Section 9.04 (J.10.b) – Sign Regulations for Liberty Mutual, a 3,182 square foot insurance agency to be located within the Frost Bank Professional Center, a 23,038 square foot multi-tenant office building, located on the 1.97-acre lot on the southwest corner of Keller Parkway (FM 1709) and Country Brook Lane, at 1240 Keller Parkway (FM 1709), being Lot 2, Block B, Keller Town Center and zoned TC (Town Center). Threshold Development Co., owner. Casteel and Associates, Inc., applicant/developer. (Case # UDC-10-0004)

Ms. Poornima Srinarasi, Planner I, gave an overview of the project and staff's recommendation. Mr. Warren Casteel, applicant, was present at the meeting to address the Planning and Zoning Commission and to answer questions. Discussion regarding this project included the amount of walk-in clients for the business, the amount of available lease space in the building, and the number of signs that will potentially be erected on this building. Mr. Hoffmann motioned to recommend denial for the sign variances for Liberty Mutual (UDC-10-0004). Ms. Sagar seconded and the motion carried (3-1; Truby, Cox, Reaves absent) with the following vote:

Ayes – Hoffmann, Sagar, Brown
Noes - Miller

2. **PUBLIC HEARING:** Consider amendments to Section 8.04, Overlay and Special Districts, within the City's Unified Development Code. The purpose of this public hearing is to consider the creation of a new U.S. Highway 377 North Overlay District. The intent of the U.S. Highway 377 North Overlay District is to implement the recommendations within the U.S. Highway 377 North Corridor Plan. The proposed regulations amend the permissible uses of the underlying Commercial and Light Industrial zoning districts, and amend access, parking, landscaping, architecture, building materials, and other site and design standards. City of Keller, applicant. (Case # UDC-10-0003)

Mr. Tom Elgin, Community Development Manager, gave an overview of the development process and time frame involved in the creation of the U.S. Highway 377 North Overlay Zoning District. The topics for the overview included boundary and development standards for the proposed subdistricts; base zoning districts and the uses allowed; general standards for the cross-access connections between developments, parking and landscaping requirements, architectural characteristics; and development incentives.

3. **PUBLIC HEARING:** Consider a recommendation to rezone properties with existing C (Commercial) and LI (Light Industrial) zoning to Commercial-U.S. Highway 377 North Overlay District and Light Industrial-U.S. Highway 377 North Overlay District. The properties are located on the east side of U.S. Highway 377 from Johnson Road north to the southern rights-of-way line of Marshall Ridge Parkway. The properties encompass approximately 148 acres of land out of the Richard F. Allen Survey, Abstract No. 29, Gustavus Gilbert Survey, Abstract No. 577, and the J.V. Roberts Survey, Abstract No. 1305. City of Keller, applicant. (Case # Z-10-0001)

Mr. Tom Elgin, Community Development Manager, gave an overview of the boundary of the proposed U.S. Highway 377 North Overlay District in general and the boundaries of the proposed Johnson Road subdistrict and the Marshall Ridge subdistrict. Mr. Brown opened the public hearing for both items D-2 and D-3. Frank Bourland, 1434 Hidden Oaks Circle, Corinth, Texas, had concerns regarding the ability to sell his property and the removal of the Light Industrial zoning district. Ms. Michelle Moore, 144 Mount Gilead Road, Keller, had concerns regarding noise that the new developments would cause and suggested that the buffer requirements between the proposed overlay district and the existing residential subdivisions to the east be increased. Ms. Diane Norrel, 121 Johnson Road, Keller, had a question on how the proposed overlay district would affect her property. Mark Keel, 550 North Main Street, was in opposition of this proposal and had concerns regarding permitted uses, the resale of his property in the future and the access management standards of the overlay district. Mr. Dick Gibson, 1100 North Main Street, Keller, was in opposition of this proposal. Mr. Dave Phillips, 1355 Melody Lane, Keller, gave the history of the Light Industrial zoned property within the Johnson Road subdistrict. Majority of the properties within the Johnson Road subdistrict is currently owned by a single owner, the owner of Samantha Springs. Mr. Phillips wanted to clarify if the freight truck traffic required for transporting water and the water bottling plant were allowed or prohibited uses within the proposed overlay district. Mr. Phillips explained the concept of flex buildings and that allowing retail, office, light industrial, and light manufacturing uses to co-exist would keep existing businesses in Keller and also attract new businesses to choose Keller over other neighboring cities. Mr. Phillips summarized his comments by saying that water bottling plant, truck terminals, and flex buildings should be permitted uses within the Johnson Road subdistrict and also that the Planning and Zoning Department and the Economic Development Department work closely together.

Ms. Sagar motioned to close the public hearing for items D-2 and D-3. Mr. Miller seconded and the motion carried unanimously (4-0; Truby, Cox, Reaves absent).

Minutes of the
Planning and Zoning Commission

April 26, 2010
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Mr. Tom Elgin, clarified that U.S. Highway 377 was a limited access highway controlled by the Texas Department of Transportation (TxDOT). Mr. Elgin stated that the access management plan within the U.S. Highway 377 North Overlay District reiterated the existing requirement within the Unified Development Code (UDC). The Planning and Zoning Commission and City Council could consider access related issues on a case-by-case basis. Discussion was held on signalization of the Mount Gilead Road and the U.S. Highway 377 intersection by TxDOT in the near future. Discussion was held on the 30-foot landscape buffer and 6-foot masonry screening wall requirement between commercial and residential developments which would dissipate the noise to a certain extent. Discussion was held regarding truck terminals and any truck traffic associated with the bottling plant would be considered as truck traffic necessary for the operation of the business. Discussion was held on whether creating a new use category for bottling water plant or to classify this use under one of the existing uses in the Light Industrial zoning district. Light manufacturing and industrial manufacturing wholly enclosed within a building are permitted by right within the Light Industrial zoning district. Discussion was held on uses being expanded in general within the Commercial zoning and also regarding the zoning change process to change the zoning of a property within the proposed overlay district. Discussion was held on uses to be allowed by right and used to be allowed by a specific use permit; uses permitted and prohibited; parking standards; and materials for exterior elevations of buildings. Mr. Miller motioned to recommend approval of item D-2 with the following recommendations:

- 1) To change the use "Restaurant, Drive-thru/Drive-in" from "P" Permitted by right to "SUP" Specific Use Permit.
- 2) To change the use "Appliance Rental" from "P" Permitted by right to "SUP" Specific Use Permit.
- 3) To change the use "Mini-warehouses (self service)" from "P" Permitted by right to "SUP" Specific Use Permit
- 4) To change the use "Studio (Photography)" from "SUP" Specific Use Permit to "P" Permitted by right.
- 5) Solar panels are allowed by right.

Ms. Sagar seconded and the motion carried unanimously (4-0; Truby, Cox, Reaves absent).

Mr. Miller motioned to recommend approval of item D-3.

Ms. Sagar seconded and the motion carried unanimously (4-0; Truby, Cox, Reaves absent).