

Mayor and Council Communication

DATE: 06/11/24

M&C FILE NUMBER: M&C 24-0503

LOG NAME: 22MSD-034 KELLI COURT, LLC

SUBJECT

(CD 2) Conduct Public Hearing, Adopt Resolution Supporting the Application of Kelli Court, LLC for a Municipal Setting Designation for Property Located at 3409, 3412, 3413, and 3417 Kelli Court, Fort Worth, Texas, 76106 to the Texas Commission on Environmental Quality, and Adopt Ordinance Prohibiting the Potable Use of Designated Groundwater from Beneath the Site Pursuant to Chapter 12.5, Article IV, Division 2 "Municipal Setting Designation"

(PUBLIC HEARING - a. Report of City Staff: Daniel Miracle; b. Public Comment; c. Council Action: Public Hearing and Act on M&C)

RECOMMENDATION:

It is recommended that the City Council:

1. Conduct a public hearing to allow the public the opportunity to give testimony on the application of Kelli Court, LLC for approval of a Municipal Setting Designation for property located at 3409, 3412, 3413, and 3417 Kelli Court, an approximately 3.62-acre tract of land located in the Diamond Heights Industrial Addition, an addition to the City of Fort Worth, Tarrant County, Texas;
 2. Adopt the attached resolution supporting Kelli Court, LLC's application to the Texas Commission on Environmental Quality for a Municipal Setting Designation for the Fort Worth Gear and Axle Property; and
 3. Adopt the attached ordinance prohibiting the potable use of designated groundwater from beneath the site.
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DISCUSSION:

On April 15, 2024, Kelli Court, LLC filed an application with the City seeking support for a Municipal Setting Designation (MSD) for the property located at 3409, 3412, 3413, and 3417 Kelli Court, Fort Worth, Texas 76106.

Staff from the FWLab, Transportation and Public Works, Development Services, Water, and Environmental Services Departments were provided the application to review. By ordinance, notice was issued, and staff conducted a public meeting held at the Diamond Hill Community Center, 1700 NE 37th St., on Tuesday, May 21, 2024. No comments or concerns were received.

The groundwater that is sought to be restricted is shallow, perched, discontinuous groundwater that occurs at depths of approximately seven (7) to nine (9) feet below the ground surface. The Fort Worth Limestone and Duck Creek Formations underlie the affected shallow groundwater. The Fort Worth Limestone consists of limestone and clay with a thickness that is 25 to 35 feet; the Duck Creek Formation consists of limestone with a thickness that is 30 to 100 feet. Formations serve as a regional aquitard preventing vertical migrations of the chemical of concern to underlying potable aquifers. The affected shallow groundwater is not a designated, recognized major or minor aquifer. The chemicals of concern detected in the designated groundwater are chlorinated volatile organic compounds. The chemicals of concern are attributed to historical land use related to automotive parts manufacturing and auto servicing activities on the subject property.

The Fort Worth Water Department provides water service to all existing residential and commercial/industrial properties located in the area and within a half mile of the MSD boundary. All undeveloped properties within a half mile of the site are eligible to receive water service from the Fort Worth Water Department.

In 2003, state law created the concept of an MSD. The purpose of an MSD is to provide a means by which the Texas Commission on Environmental Quality (TCEQ) may limit the scope of investigations and response actions for groundwater contamination at a site, provided the groundwater is prohibited for use as a potable water source. Potable water means water used for drinking, showering, bathing, cooking, or irrigating crops intended for human consumption. A person, typically a developer, must apply to TCEQ to designate impacted property as an MSD. If granted, the developer will not be required to clean up designated groundwater within the MSD to drinking water standards. However, other cleanup standards such as inhalation and contact must still be met. The TCEQ requires that the municipality where the site is located provide a resolution that supports any application and pass an ordinance prohibiting potable use of groundwater at the subject property.

In January 2005, the City Council adopted an ordinance creating a procedure for persons applying to the TCEQ for an MSD which includes filing an application with the City. This MSD application is the 34th within Fort Worth city limits. Approval of this MSD application by the TCEQ will support the usage of the subject property consistent with the current zoning without unnecessary requirements placed on the developer to take actions to address historically contaminated groundwater. The location is in COUNCIL DISTRICT 2.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of these recommendations will have no material effect on City funds.

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