

MINUTES OF THE MEETING OF THE JERSEY VILLAGE PLANNING AND ZONING COMMISSION HELD ON APRIL 28, 2021 AT 6:00 P.M. PURSUANT TO SECTION 418.016 OF THE TEXAS GOVERNMENT CODE

Pursuant to Section 418.016 of the Texas Government Code, on March 16, 2020, the Governor of the State of Texas granted the Office of the Attorney General's request for the temporary suspension of certain provisions of the Texas Open Meetings Act to allow for telephonic or videoconference meetings of governmental bodies that are accessible to the public in an effort to reduce in-person meetings that assemble large groups of people, as a precautionary measure to contain the spread of novel coronavirus COVID-19.

Accordingly, the public was not allowed to be physically present at this meeting of the City of Jersey Village, Texas, Planning and Zoning Commission but the meeting was available to members of the public and allowed for two-way communications for those desiring to participate via telephone with the following toll-free number: **346-248-7799 along with Webinar ID: 885 7427 4320.**

A. The meeting was called to order in at 6:00 p.m. and the roll of appointed officers was taken. Commissioners present were:

Rick Faircloth, Chairman
Barbara Freeman, Commissioner
Jennifer McCrea, Commissioner

Debra Mergel, Commissioner
Courtney Standlee, Commissioner

Council Liaison, Drew Wasson was present at this meeting.

Staff in attendance: Harry Ward, Director of Public Works; Lorri Coody, Board Secretary; Justin Pruitt, City Attorney and Bob Blevins, IT Director.

B. CITIZENS' COMMENTS - Any person who desires to address the Planning and Zoning Commission regarding an item on the agenda will be heard at this time. In compliance with the Texas Open Meetings Act, unless the subject matter of the comment is on the agenda, the City staff and Commissioners are not allowed to discuss the subject. Each person is limited to five (5) minutes for comments to the Planning and Zoning Commission.

There were no Citizens' Comments.

C. Consider approval of the minutes for the meeting held on April 19, 2021.

Commissioner McCrea moved to approve the minutes for the meeting held on April 19, 2021. Commissioner Freeman seconded the motion. The vote follows:

Ayes: Commissioners McCrea, Standlee, Mergel and Freeman
Chairman Faircloth

Nays: None

The motion carried.

D. Discuss and take appropriate action concerning the request of Phillip Carameros, on behalf of Gordon NW Village LP, to amend the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-105(a)(21) by adding a new Subsection (e) to include "massage establishment" as a specific use regulation in District F; and to amend Section 14-5 by adding definitions for "massage

establishment” and “massage therapy” and, if appropriate, prepare for presentation to Council on May 10, 2021 a Preliminary Report in connection with the request.

Harry Ward, Director of Public Works, introduced the item. Background information is as follows:

On April 15, 2021, Phillip Carameros on behalf of Gordon NW Village, LP filed a request to amend the Jersey Village Code of Ordinances, Chapter 14, Article IV, Section 14-105(a)(21) by adding a new Subsection (e) to include “massage establishment” as a specific use regulation in District F.

During Staff’s review of the application, it was determined that should the Commission find in its Preliminary Report to move forward with the request to make this amendment, additional definitions will need to be added to Section 14-5 of the Code of Ordinances. Accordingly, Staff has prepared the following definitions for the Commission’s review:

Massage establishment means a structure in which massage therapy is advertised for, provided, supported, or allowed. A massage establishment shall in no way advertise for, provide, support, or allow any activity that is contemplated under Chapter 18, Article II of this Code.

Massage therapy means the business of manipulation of the human body by hand or through a mechanical or electrical apparatus, and includes stroking, kneading, percussion, compression, vibration, friction, nerve strokes, and other similar actions. Massage therapy includes, but is not limited to, massage, therapeutic massage, massage technology, myotherapy, body massage, and body rubbing. Massage therapy includes reflexology only when such reflexology involves work on the hands and feet and no other part of the human body is touched. Where massage therapy is permitted under this Chapter, it shall in no way permit the advertisement for, provision, support, or allowance of any activity that is contemplated under Chapter 18, Article II of this Code.

After discussions, should the Commission agree that “massage establishment” should be added to zoning district F and that provisions should be made for additional definitions Section 14-5 for “massage establishment” and “massage therapy;” a preliminary report with a proposed ordinance is provided for making the recommendation to City Council.

Applicant, Scott Gordon was present. He gave information to the Commission about the NW Village Shopping Center. He mentioned that he has several vacancies in the Center that he has not been able to lease. Based upon his experience with other shopping centers he owns, he told the Commission that he believes he can lease the vacant spot to a massage establishment. He told the Commission that he runs for exercise and frequently visits these type of establishments for massage therapy. He went on to say that NW Village Shopping Center is a large facility. If the Commission allows this type of business, it will be an “upscale” buildout, with the interior comparing to a spa found in a Ritz Carlton or a Hyatt Hotel. The therapists will be licensed and the business will not be open past 9 pm. He went on to say that in no way will this be a Sexually Oriented Business (SOB). The shopping center currently has several nationally known businesses. He needs to fill the vacancies and believes that this use will be a good fit for Jersey Village. He mentioned that it could be a Massage Heights or a similar business.

There was discussion by the Commission. Some members were skeptical about the name “massage establishment.” Others were concerned about undesirable businesses coming into the City and that the City would not be able to keep them from establishing a business here should this change be allowed.

City Attorney Pruitt explained that SOBs are not permitted as defined by the suggested definitions provided for “massage establishment” in the meeting packet. SOBs are not permitted in Jersey Village, however, with this change; a legitimate massage therapy business would be allowed to function in all of District F with as Specific Use Permit. This is not an open door for SOBs and is in line with what the City already has for this type of business.

The Commission discussed enforcement and were concerned about unauthorized use going on behind “closed doors.” There was concern that a business can seem legit at first and revert to a SOB without the City knowing.

There was further discussion by the Commission concerning SOBs in other areas surrounding Jersey Village. The requestor explained that his company will have restrictions in the lease. He also mentioned that most of the interior will be a wide-open room, with few separate rooms. He told the Commission that there could be a restriction on the hours of operation, suggesting closure from 9:30 pm to 9:00 am. Additionally the therapists are licensed.

City Attorney Pruitt explained the Specific Use Permit (SUP) and how that process works. The permits are reviewed by the Commission and they can add restrictions/conditions within the SUP. It will all be at the discretion of the Commission to approve or deny any request for an SUP. By adding this text change as a specific use, The City, through the Planning and Zoning Commission, gets the benefit to add restrictions/conditions to the permit, where this benefit would not be available if the text change was added as a use by right.

The Commission continued to discuss the request. The pros and cons were discussed. The coverage area for District F was explained and discussed. The suggested hours of operation as a condition of the SUP was discussed. Some felt that this type of condition will not prevent an SOB from operating.

Council Member Wasson gave his comments concerning this request. He felt that the more restrictive we can make it the better off for the City, as this change will affect the entirety of District F and not just the NW Village Shopping Center. The location of District F was reviewed and discussed further.

The SUP and the process of adding restrictions/conditions was explained by City Attorney Pruitt. He also explained that the SUP goes with the owner so a new owner would need to reapply.

Spot zoning was discussed. The City Attorney explained the repercussions of spot zoning.

The approval of a SUP is on a case-by-case basis. Some wondered if it is possible to say “yes” to one and “no” to another request for a SUP. City Attorney Pruitt stated that the idea of a SUP is to make the use fit within the District in which the request is being made. Therefore, each application would be different so the restrictions/conditions would be different as well.

Some members wanted to know if approved SUP’s are limited to a two (2) year period, requiring the applicant to reapply after two-years. City Attorney Pruitt stated that having a two-year period is possible. Others wanted to know if a specific location for operation can be stated in the SUP. City Attorney Pruitt stated that the SUP would apply to a specific address. Mr. Gordon stated that each suite within the shopping center has a different address, providing the ability to approve the SUP for a specific suite number or tying it to a specific development. City Attorney Pruitt stated that the Commission could even have it so that there could not be another establishment within so many feet of another

massage establishment as long as the conditions are reasonable. He stated that density of uses is common in zoning in general and within a SUP.

The idea of having the vendor apply for the SUP was discussed. The pros and cons for this idea were discussed by the Commission.

The hours of operation were discussed again and the benefits of limiting the hours were discussed. Additionally, the Commission discussed putting conditions on what types of therapy can be conducted in private rooms, with most services being performed in a larger open room. The sign advertising the establishment was discussed. It was suggested that not allowing the generic term “massage” on the signage.

There was discussion about pawnshop regulation and how that compares to this request. City Attorney Pruitt explained the differences. He went on to say if massage establishments are permitted, restrictions could be applied for distances by looking at abutting uses in order to determine the amount of the distance restriction.

City Attorney Pruitt stated that the two definitions are specific. They define the type of business and the type of services. He told the commission that he believes there is enough protection in these definitions for the city and suggested that further protections can be added by the Commission though the use of restrictions/conditions for the SUP.

Conditions/restrictions were discussed. Some wondered if there were restrictions on the State level. City Attorney Pruitt explained that there are none as defined, but there are restrictions for SOBs, which do not apply since an SOB would not be permitted as defined.

The process moving forward was discussed by the Commission. The number of current massage establishments within the City was discussed.

With no further discussion on the matter, Commissioner Mergel moved to approve preliminarily recommend that City Council amend the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-105(a)(21) by adding a new Subsection (e) to include “massage establishment” as a specific use regulation in District F; and to amend Section 14-5 by adding definitions for “massage establishment” and “massage therapy.” Chairman Faircloth seconded the motion. The vote follows:

Ayes: Commissioners Mergel
Chairman Faircloth

Nays: McCrea Standlee Freeman

The motion failed.

City Attorney Pruitt explained that the denial of the request does not “kill” it. He also explained how the SUP will be addressed, stating that the Commission will not need to take any action on Item E.

The applicant addressed the Commission about the concerns of the Commission. He wanted to know how the Commission felt about limiting approval to include only major massage chains, which could be defined as having at least 50 locations. Some members felt that limiting it to a major chain with a larger presence in the US might be agreeable.

This idea was discussed by the Commission. City Attorney Pruitt stated that this could be done, but we would need to come back to the Commission with an amended Ordinance for consideration. This idea was discussed in detail.

Council Member Wasson stated that he liked the idea of having it limited to a national or statewide brand. At this point, the process moving forward was discussed.

Commissioner Mergel moved to reconsider the denial of the proposed ordinance change and instead moved to reconsider the Ordinance at an upcoming meeting of the Planning and Zoning Commission. The motion was seconded by Chairman Faircloth. The vote follows:

Ayes: Commissioners McCrea, Standlee, Mergel and Freeman
Chairman Faircloth

Nays: None

The motion carried.

- E. Discuss and take appropriate action concerning the application request of Phillip Carameros, filed on behalf of Gordon NW Village, LP, for a specific use permit to allow the operation of a massage establishment on the property located at 17464 NW FWY, Houston, Texas 77040 within the city limits in zoning District F;” and, if appropriate, prepare for presentation to Council on May 10, 2021 a Preliminary Report in connection with the request.**

Given the action of the Commission on item D, item E was not called and, therefore, no action was taken on Item E.

F. Adjourn

There being no further business on the Agenda the meeting was adjourned at 7:20 p.m.



Lorri Coody, City Secretary