

**MINUTES OF THE MEETING OF THE JERSEY VILLAGE
PLANNING AND ZONING COMMISSION**

June 14, 2021 – 6:00 p.m.

THE PLANNING AND ZONING COMMISSION OF THE CITY OF JERSEY VILLAGE, TEXAS, CONVENED ON JUNE 14, 2021 AT 6:00 P.M. IN THE CIVIC CENTER, 16327 LAKEVIEW DRIVE, JERSEY VILLAGE, TEXAS.

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	Courtney Standlee, Commissioner
Barbara Freeman, Commissioner	Ty Camp, Commissioner
Debra Mergel, Commissioner	Jennifer McCrea, Commissioner

Joseph Paul, Vice Chairman, was not present at this meeting.

Drew Wasson, Council Liaison, was present at this meeting.

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

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 June 2, 2021.

Commissioner Mergel moved to approve the minutes for the meeting held on June 2, 2021. Commissioner McCrea seconded the motion. The vote follows:

Ayes: Commissioners Paul, McCrea, Standlee, Mergel, Camp 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 necessary definitions and, if appropriate, prepare for presentation to Council on June 21, 2021 a Preliminary Report in connection with the request.

Background information for this item 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.

On April 28, 2021 the Commission reviewed the request of NW Village, LP for the requested amendments along with Staff’s recommendations for the addition of definitions for “Massage establishment” and “Massage Therapy” to Section 14-5 of the Code of Ordinances.

During the April 28 meeting the Commission asked Staff to come back with a proposed Ordinance that would limit approval of these type businesses to include only major massage chains.

Accordingly, the definition section of the proposed Ordinance was updated to read:

*“Massage establishment means a structure in which massage therapy is advertised for, provided, supported, or allowed. **A massage establishment shall adhere to nationally recognized standards of operation for its business activity, and nationally recognized standards for its practice of massage therapy.** 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.”*

The Commission met again on June 2, 2021 to discuss the updated language. In reviewing same, mention was made that perhaps the Commission should review the definition language outlined in the Texas Occupational Code, Chapter 455, for “massage therapy” and “massage establishment.”

Accordingly, a motion was passed that tabled the item in order for Staff to bring back definitions based upon the Texas Occupational Code along with several examples.

In accordance with the Commission’s instructions, the City Attorney has prepared an informational packet with an overview of what is going on with Massage Therapy regulations across the State. It also provides some options for the P&Z to consider if it is going to move forward with this Code Amendment.

This item is to discuss the proposed amendments. Should the Commission agree that “massage establishment” should be added to zoning district F as a specific use and that provisions should be made for additional definitions in Section 14-5, a preliminary report with a proposed ordinance will be needed in order to make the recommendation to City Council on June 21, 2021.

Accordingly, a draft report and a draft ordinance have been included in the meeting packet. Both contain “blank spaces” reserved for any definitions that the Commission may select after discussions.

The Commission reviewed the information provided in the meeting packet, including the information provided concerning Chapter 455 of the Texas Occupational Code. City Attorney Pruitt gave additional information, stating that he reviewed information from an array of cities in order to put together the examples in the meeting packet. He went on to explain the information in the packet, including ways to insure enforcement. He explained the difference between having massage establishments only as a specific use or to have them as a regular use that is enforced through a permitting system rather than through the zoning code.

The Commission discussed the specific use permit (SUP) and the flexibility that a SUP offers. City Attorney Pruitt explained that the limitations for SUP’s are few and the SUP provides much flexibility. However, the main thing that the Commission would need to make sure when granting or denying SUP

requests is not to be prejudicial. The Commission discussed certain restrictions that could be applied should the text change be approved and a SUP issued.

The Commission discussed the examples provided in the meeting packet. The process for an SUP was discussed. It was explained that each application would be reviewed by the Commission and by the City Council. There was discussion about how the word “massage” could be taken out of a company’s name. City Attorney Pruitt explained that the Commission could make it permissible if the word “massage” is a part of the Company name like Massage Envy.

Some members liked example number two on page 38 of the meeting packet. Some members stated that their research has shown that many cities surrounding Houston do permit these type establishments. Other members were concerned with having this type of establishment in the City.

The applicant explained their position concerning the request. He told the Commission that they do not have a business lined up for the SUP. Some members were concerned about granting the SUP without knowing what company would be covered by the SUP. The applicant explained that other leases they have with larger retailers have provisions in their leases requiring certain types of co-leases.

The Commission went back to reviewing example two. It was pointed out that this text change affects all businesses that may be locate in District F. The process was discussed. City Attorney Pruitt explained that should the Commission move forward with granting a SUP, the permit will be issued to NW Village Shopping Center and not a specific vendor that will be offering the service. It was discussed that it might be better to make the text change and have the vendor come in later to apply for the SUP.

The Commission discussed changes making changes to example two. In completing this discussion, the following definitions were composed:

“Massage establishment means a structure in which massage therapy is advertised for, provided, supported, or allowed. A massage establishment shall be licensed under Chapter 455 of the Texas Occupations Code. 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 services contemplated in Chapter 455 of the Texas Occupations Code. Massage therapy includes, but is not limited to, 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.”

With no further discussion on the matter, Commissioner Camp moved that the Commission 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 that amendments be made to Section 14-5 by adding the definitions as crafted by the Commission in this meeting for “massage establishment” and “massage therapy.” Commissioner Faircloth seconded the motion. The vote follows:

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

Nays: Commissioner McCrea

The motion carried.

A copy of the Preliminary Report is attached to and made a part of these minutes as Exhibit A.

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 June 21, 2021 a Preliminary Report in connection with the request.

Background information for this item is as follows: On April 15, 2021, Phillip Carameros filed an application 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. In connection with same, on April 28, 2021 an item was placed on the Planning and Zoning Commission’s agenda for consideration.

On April 28, 2021, the Commission did not call the item concerning the issuance of a specific use permit. However, in the item concerning the text change that would permit a “massage establishment” in District F with a specific use permit; the Commission discussed the following possible restrictions:

- Hours of Operation;
- Types of therapy permitted in private rooms;
- Limit on the number of private rooms;
- Must have a wide open area for most therapy; and
- No use of the term “massage” in signage.

While all of these restrictions would be “allowed,” they are difficult to enforce. It is the position of Staff that the change in definition to have the business follow nationally recognized practices, will cover the concerns of the Commission concerning these suggestions.

The Commission met again on June 2, 2021. It did not call this item. Rather, it instructed Staff to bring back definitions from the Chapter 455 of the Texas Occupational Code for “massage establishment” and “massage therapy” as well as examples of what other cities are using to define these terms.

In compliance with the Commission’s instructions, the City Attorney put together an informational packet that was presented to the Commission in item “D” of this agenda. That packet outlined the following concerning conditions that other cities are applying to the use of “massage therapy:”

- limited hours of operation (ex. No massage session after 10:00 PM);
- minimum square footage of massage establishment (ex. 1,200 sqft or greater);
- mandatory display of all licenses;
- limited entrance/exit requirements (ex. Only one front and back door);
- prohibition on sexual activity and sexually-oriented business;
- prohibited in residential areas; and
- mandatory inspections of massage establishments.

Contingent upon the Planning and Zoning Commission’s desire to include “massage establishment” as a specific use in District F, Gordon NW Village LP has also filed this application 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.

Should the Commission wish to recommend granting the specific use permit, it will be necessary to include a proposed ordinance with the Commission’s preliminary report. In considering a proposed ordinance for the specific use permit, the Commission may include limitations, restrictions, and/or conditions for the use being requested.

It was the consensus of the Commission that this application should be held in abeyance until NW Village Shopping Center knows the vendor for this service. At that point, NW Village Shopping Center will amend their application and the Commission will revisit the request.

Accordingly, the Commission took no action on this item.

F. Adjourn

There being no further business on the Agenda the meeting was adjourned at 6:46 p.m.



Lorri Coody, City Secretary

EXHIBIT A

Planning and Zoning Commission Minutes

June 14, 2021

Preliminary Report Massage Establishment - District F



CITY OF JERSEY VILLAGE – PLANNING & ZONING COMMISSION PRELIMINARY REPORT – DISTRICT F - MASSAGE ESTABLISHMENT

The Planning and Zoning Commission has met on April 28, 2021, June 2, 2021, and June 14, 2021 in order to review the zoning ordinances as they relate to amending 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; and amending Section 14-5 by adding definitions for “massage establishment” and “massage therapy.”

After review and discussion, the Commissioners preliminarily proposed that the Code of Ordinances of the City of Jersey Village, Texas, should be amended by adding a new subsection (e) to Section 14-105(a)(21), so that Section 14-105 (a)(21) shall read as follows:

“(21) The following uses are permitted in district F with a specific use permit:

- a. Telephone switching facilities.
- b. Child day-care operations (licensed child-care centers and school-age program centers).
- c. Car wash facilities.
- d. Retail establishment selling or offering for sale any alcoholic beverage.
- e. Massage establishment.”

The Commission also preliminarily proposed that the Code of Ordinances of the City of Jersey Village, Texas, should be amended by adding the following definitions to Section 14-5, with such definitions being placed alphabetically within the existing list of definitions of Section 14-5, so that the definitions shall read as follows:

“*Massage establishment* means a structure in which massage therapy is advertised for, provided, supported, or allowed. A massage establishment shall be licensed under Chapter 455 of the Texas Occupations Code. 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 services contemplated in Chapter 455 of the Texas Occupations Code. Massage therapy includes, but is not limited to, 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.”

These preliminary changes to the City’s comprehensive zoning ordinance are more specifically detailed in the proposed ordinance attached as Exhibit “A.”

The next step in the process as required by Section 14-84(c)(2)(b) of the Jersey Village Code of Ordinances is for Council to call a joint public hearing with the Planning and Zoning Commission.

Respectfully submitted, this 14th day of June 2021.

ATTEST:

s/Rick Faircloth, Chairman

s/Lorri Coody, City Secretary



EXHIBIT A

TO THE

PLANNING AND ZONING

COMMISSION'S

PRELIMINARY REPORT

JUNE 14, 2021

Amend Section 14-105(a)(21) by adding a new Subsection (e) and adding the necessary definitions to Section 14-5.

ORDINANCE NO. 2021-xx

AN ORDINANCE AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES OF THE CITY OF JERSEY VILLAGE, TEXAS, BY AMENDING CHAPTER 14, ARTICLE I, SECTION 14-5 BY ADDING DEFINITIONS FOR “MASSAGE ESTABLISHMENT” AND “MASSAGE THERAPY”; AMENDING CHAPTER 14, ARTICLE IV, SECTION 14-105(A)(21) BY ADDING A NEW SUBSECTION (e) TO INCLUDE “MASSAGE ESTABLISHMENT” AS A USE ALLOWED IN ZONING DISTRICT F THROUGH A SPECIFIC USE PERMIT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL; PROVIDING A PENALTY AS PROVIDED BY SECTION 1-8 OF THE CODE; AND, PROVIDING AN EFFECTIVE DATE.

IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE:

SECTION 1. THAT the Code of Ordinances of the City of Jersey Village, Texas, is hereby amended by adding definitions for “massage establishment” and “massage therapy” to Section 14-5, with such definitions being placed alphabetically within the existing list of definitions of Section 14-5, so that the definitions shall read as follows:

“Massage establishment means a structure in which massage therapy is advertised for, provided, supported, or allowed. A massage establishment shall be licensed under Chapter 455 of the Texas Occupations Code. 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 services contemplated in Chapter 455 of the Texas Occupations Code. Massage therapy includes, but is not limited to, 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.”

SECTION 2. THAT the Code of Ordinances of the City of Jersey Village, Texas, is hereby amended by adding a new subsection (e) to Section 14-105(a)(21), so that Section 14-105 (a)(21) shall read as follows:

“(21) The following uses are permitted in district F with a specific use permit:

- a. Telephone switching facilities.
- b. Child day-care operations (licensed child-care centers and school-age program centers).
- c. Car wash facilities.
- d. Retail establishment selling or offering for sale any alcoholic beverage.
- e. Massage establishment.”

SECTION 3. THAT in the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Jersey Village, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

SECTION 4. THAT all other ordinances or parts of ordinances in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed.

SECTION 5. THAT any person who shall violate any provision of this Ordinance shall be guilty of a misdemeanor and subject to a fine as provided in Section 1-8.

SECTION 6. THAT this Ordinance shall be in full force and effect from and after its passage.

PASSED, APPROVED, AND ORDAINED this _____ day of _____ 2021.

BOBBY WARREN, MAYOR

ATTEST:

Lorri Coody, City Secretary

