City of Farmers Branch

City Hall
13000 Wm. Dodson Pkwy
Farmers Branch, TX 75234

Meeting Minutes

Planning and Zoning Commission

Monday, April 23, 2018 **7:00 PM** **City Hall - 2nd Floor Study Session Room**

Study Session Meeting to be held at 6:00 PM in Study Session Room

Excused 3 - Commissioner Chris Brewer, Commissioner Michael Driskill, and Vice Chair Sergio De Los Santos

Present 9 - Commissioner Tim Yarbrough, Commissioner David Moore, Commissioner Jared Sullivan, Chairman Jason O'Quinn, Commissioner Linda Bertl, Commissioner Giovanni Zavala, Tina M. Firgens AICP Director of Planning, Brian Campbell Planning Technician, and Kevin Laughlin City Attorney

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1) Manske Library
2) City Hall

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A. STUDY SESSION

Excused 3 - Commissioner Chris Brewer, Commissioner Michael Driskill, and Vice Chair Sergio De Los Santos

Present 9 - Commissioner Tim Yarbrough, Commissioner David Moore, Commissioner Jared Sullivan, Chairman Jason O'Quinn, Commissioner Linda Bertl, Commissioner Giovanni Zavala, Tina M. Firgens AICP Director of Planning, Brian Campbell Planning Technician, and Kevin Laughlin City Attorney

A.1 TMP-2711 Discuss Regular Agenda items.

Chairman O'Quinn opened the Study Session at 6:03 PM. Chairman O'Quinn thanked the Commissioners for their service.

Chairman O'Quinn opened discussion on Study Session Agenda Item A.1 Discuss Regular Agenda Items.

Chairman O'Quinn asked for any questions or comments on Regular Agenda Item B.1.

Hearing no questions or comments from the Commissioners, Chairman O'Quinn asked for any questions or comments on Regular Agenda Item B.2.

Referring to Regular Agenda Item B.2, Commissioner Bertl noted an error in the Minutes. Commissioner Bertl commented that the date of the joint meeting between City Council and the Planning and Zoning Commission on page seven (7) was incorrect, saying that the date should have read October 23, 2017, not October 23, 2018. Chairman O'Quinn said the correction would be done administratively by staff and that the error would be noted for the record during the Regular Meeting.

Chairman O'Quinn asked for any questions or comments on Regular Agenda Item B.3.

Hearing no questions or comments from the Commissioners on Regular Agenda Item B.3, Chairman O'Quinn explained Regular Agenda Item C.1. Chairman O'Quinn said that this item would be tabled until the May 7, 2018 meeting of the Planning and Zoning Commission. Chairman O'Quinn explained this was due to the applicant requesting more time to address additional information requested by staff.

Referring to Regular Agenda Item C.1, Commissioner Yarbrough asked what information staff was requesting of the applicant. Chairman O'Quinn said a market analysis. Mrs. Tina Firgens, Director of Planning, said this was correct, adding that staff is working with the applicant to assemble all necessary information and to address staff comments.

Chairman O'Quinn asked for any questions or comments on Regular Agenda Item C.2.

Referring to Regular Agenda Item C.2, Commissioner Yarbrough asked if staff performed background checks on applicants for similar requests. Mrs. Firgens asked Commissioner Yarbrough if he could be more specific. Commissioner Yarbrough said no. Mr. Kevin Laughlin, City Attorney, said that background checks were not a requirement of zoning and therefore not performed by staff.

Referring to Regular Agenda Item C.2, Chairman O'Quinn commented that the applicant was already occupying the space.

Referring to Regular Agenda Item C.2, Commissioner Moore asked if the applicant had already been in business before being informed of the Specific Use Permit (SUP) requirement. Chairman O'Quinn said in speaking with staff, it was his understanding that the use on the issued Certificate of Occupancy was not congruent with the actual business. Chairman O'Quinn said that the original Certificate of Occupancy was for a spa type use and that there was miscommunication between the applicant and staff on this use.

Referring to Regular Agenda Item C.2, Commissioner Moore commented that spas do not require an SUP. Mrs. Firgens said this was correct and said that Retail, Personal Services including beauty salons were allowed by right in Local Retail-1 (LR-1). Mrs. Firgens noted that the Certificate of Occupancy was issued last Fall, prior to her arrival at the City, and it was her understanding that the business was operating more as a personal services type use, hence the business being classified as Retail, Personal Services which is allowed by right in LR-1, the base zoning for Planned Development District No. 8 (PD-8) and the subject property. Mrs. Firgens said after the business was opened, the applicant was operating the business as a massage and reflexology

establishment, which requires approval of an SUP within the LR-1 zoning district and hence why this request has come before the Commission. Mrs. Firgens said that staff works to properly classify zoning during the Certificate of Occupancy process, but that in this case there was miscommunication. Regarding the business services being provided, Mrs. Firgens said the purpose of this SUP request is to correct this error.

Referring to Regular Agenda Item C.2, Chairman O'Quinn said that the applicant has been working with staff on this SUP request and has presented staff with proper state licensure.

Referring to Regular Agenda Item C.2, Commissioner Bertl said there was only one (1) employee for this business. Mrs. Firgens said it was her understanding that per the information provided by the applicant, the business has one (1) licensed therapist and one (1) receptionist. Mrs. Firgens said it is possible that the applicant could hire additional employees at a later time.

Referring to Regular Agenda Item C.2, Commissioner Yarbrough asked who completed the public notification mail out for this SUP request. Mrs. Firgens said it was Mr. Brian Campbell, Planning Technician.

Referring to Regular Agenda Item C.2, Commissioner Sullivan asked if it was typical for staff to not receive any responses from affected property owners when the number of mailed individuals is considerably high. Mrs. Firgens said it is up to each individual property owner with regards to responding to a public notification letter. Mrs. Firgens said that for this SUP request, staff had not received any responses. Mrs. Firgens stated she did not know how often the people living in the condominium complex adjacent to the subject site receive public notification letters and respond. Mrs. Firgens said that when responses are received by staff, they are typically related to a person having a concern regarding the requested zoning.

Referring to Regular Agenda Item C.2, Commissioner Bertl asked what is the notification distance from the subject property. Mrs. Firgens said 200 feet. Mrs. Firgens said that the notification area for this SUP request included the condominium complex, hence the large number of notification letters that were sent out. Mr. Laughlin added that anyone who owned property within the common area of the subject site, no matter the size, had to be mailed a notification letter.

Referring to Regular Agenda Item C.2, Commissioner Yarbrough asked if there was only going to be one (1) receptionist for the business, noting the multiple massage and reflexology rooms on the floor plan. Mrs. Firgens said that it is her understanding that there would currently only be one (1) receptionist and one (1) licensed therapist. Mrs. Firgens said she was not sure how the applicant scheduled appointments.

Referring to Regular Agenda Item C.2, Commissioner Zavala raised concerns about the applicant's business operations and then asked what types of questions could the Commissioners ask of the applicant during the Regular Meeting. Mr. Laughlin said questions about illegal activities could not be asked.

Referring to Regular Agenda Item C.2, Commissioner Yarbrough raised concerns about illegal activities associated with other similar types of businesses. Mr. Laughlin said if the concern raised by the Commissioners is that this business may conduct illegal activities should the SUP request be approved and that this business were allowed to operate, then such issues would be handled by law enforcement.

Referring to Regular Agenda Item C.2, Commissioner Bertl said that the concerns raised by Commissioner Zavala and Commissioner Yarbrough were related to the question about background checks. Mr. Laughlin said that other businesses have raised similar concerns, including tattoo and permanent makeup parlors. Mr. Laughlin said the State of Texas has been involved with the operations of massage establishments to ensure massage therapists are properly licensed and to address past issues. Mr. Laughlin noted that other cities have dealt with issues surrounding massage establishments.

Referring to Regular Agenda Item C.2, Commissioner Yarbrough asked if the applicant was required to provide their licensure. Mrs. Firgens said the applicant provided copies of the license for the business and the professional license for the massage therapist. Commissioner Yarbrough asked if these licenses were verified. Mrs. Firgens said no, that staff took these on face value. Mrs. Firgens said the applicant was insistent that Mrs. Andreea Udrea, Planning Manager, view the original licenses and that copies were made for staff files. Mr. Laughlin stated that there is an existing database for all licenses that could be accessed through the Texas Department of Health's website.

Referring to Regular Agenda Item C.2, Commissioner Bertl asked about the applicant's background and if staff performs background checks on applicants. Mrs. Firgens said staff does not perform background checks for applicants who submit Certificate of Occupancy applications. Mrs. Firgens said all applications are taken in at face value and it is presumed that the applicant will operate a legitimate business. Mrs. Firgens said in processing Certificates of Occupancy, it is sometimes necessary to look up the business on the internet to get a better understanding of the business in order to properly classify it within the City's zoning. Mrs. Firgens said all Zoning Amendment, Site Plan, and SUP applications are treated fairly and evaluated from a land use perspective. Mrs. Firgens said staff is not in the practice of performing background checks because background checks are not related to zoning.

Referring to Regular Agenda Item C.2, Commissioner Zavala asked if the applicant was the massage therapist. Mrs. Firgens said it was her understanding that yes the applicant is the massage therapist.

Referring to Regular Agenda Item C.2, Commissioner Bertl asked how long the applicant had been in business. Mrs. Firgens said it was about six (6) months. Mrs. Firgens said it was her understanding that the Certificate of Occupancy was issued in late fall to early winter. Mrs. Firgens said the Certificate of Occupancy was issued prior to her arrival and that it was issued as a Retail, Personal Services type use. Mrs. Firgens noted that these types of uses are allowed by right within the LR-1 zoning district. Mrs. Firgens said there were some communication issues and that staff had been working with the applicant once it was brought to their attention that the applicant required an SUP for the business.

Referring to Regular Agenda Item C.2, Commissioner Bertl asked if there were any plans in writing for the types of businesses the City desired for the subject site. Mrs. Firgens said that in evaluating SUP requests, staff looks to the appropriate comprehensive plan for guidance. Mrs. Firgens said, per the staff report for this agenda item, staff reviewed the Four Corners Area Vision Plan and the Central Area Plan. Mrs. Firgens said the Four Corners Area Vision Plan was adopted by City Council in May 2008 to encourage development in this area and provide guidelines for what could be developed in this area. Mrs. Firgens said an important part of this plan involved the redevelopment of this area, and that it was dependent upon the owner of the property to invest in the redevelopment of this area. Mrs. Firgens said it was possible that the

shopping center could continue to exist as it is today and have other property redevelop around it. Mrs. Firgens noted the vacant tract of land to the east of the subject property, next to the Chase Bank building.

Referring to Regular Agenda Item C.2, Chairman O'Quinn asked if LR-1 was an additional layer of zoning of PD-8, which governs the subject site. Mrs. Firgens said PD-8 governed the shopping center and refers to the LR-1 district for the base zoning district. Mrs. Firgens said PD-8 had been around for decades and allowed for the development of the shopping center. Mrs. Firgens said at some point, it was determined that LR-1 was the base zoning for PD-8 and that LR-1 is used to determine the appropriate uses within this district. Mrs. Firgens noted that some Planned Development Districts specify appropriate uses while others refer to one (1) of the zoning districts in the Comprehensive Zoning Ordinance (CZO) as the base zoning. Mrs. Firgens noted that for this particular case, PD-8 referred to LR-1 as the base zoning and that this zoning district determined the appropriate uses. Mrs. Firgens noted that one of the uses in the zoning district was Retail, Personal Services and it was determined at the time of the issuance of the Certificate of Occupancy that the applicant's use was comparable to this use category.

Referring to Regular Agenda Item C.2, Chairman O'Quinn said reflexology and massage businesses are not allowed by right in the LR-1 zoning district. Mrs. Firgens said yes and that these uses require approval of an SUP. Mrs. Firgens stated that the massage establishment use is allowed by right in the Local Retail-2 District (LR-2).

Referring to Regular Agenda Item C.2, Commissioner Bertl asked if an incoming business is ever evaluated on how much business or income they might bring to their area. Mrs. Firgens said staff evaluates the plan of operation and the information submitted, and cited the Glazers facility at 2001 Diplomat Drive as an example. Mrs. Firgens said applications are evaluated from a land use perspective, including: is the use allowed or not or subject to an SUP; if the use is compatible with surrounding land uses or not; how does the use fit in with the surrounding uses; and what is the comprehensive plan recommendation. Mrs. Firgens also cited the Area Event center at 4051 LBJ Freeway as an example.

Referring to Regular Agenda Item C.2, Commissioner Bertl asked if any City staff evaluated what income an incoming business might generate for the community. Mrs. Firgens said the City has an Economic Development Department team. Mr. Laughlin said that if an incoming business was seeking incentives such as property tax rebates, that such an evaluation would be done at that time. Mr. Laughlin said the Economic Development team targets certain businesses the City desires. Mr. Laughlin said these considerations are not made from a land use perspective. Mr. Laughlin said it is presumed that incoming businesses will be able to meet the thresholds and criteria for the specific zoning district. Mrs. Firgens added that uses requiring an SUP are recognized as appropriate uses within a particular zoning district, but that the use may not be appropriate for all properties within that district, hence the opportunity to evaluate these requests on a case by case basis. Mrs. Firgens cited Qualifying Restaurants as another example.

Referring to Regular Agenda Item C.2, Commissioner Moore said massage establishments were permissible in LR-1 zoning. Mrs. Firgens said with approval of an SUP. Commissioner Moore asked if PD-8 was part of the LR-1 zoning district or only for the subject site. Mrs. Firgens said only for the subject site. Mrs. Firgens said there could be other Planned Development Districts where LR-1 is the base zoning or other properties in the City that are zoned straight LR-1.

Referring to Regular Agenda Item C.2, Commissioner Moore asked if there are other areas of the City zoned LR-1 where a massage business was allowed by right. Mrs. Firgens said massage businesses require an SUP in any area of the city zoned LR-1. Mrs. Firgens said there are other areas of the City where massage and reflexology businesses are allowed by right, but not within the LR-1 zoning district.

Referring to Regular Agenda Item C.2, Commissioner Yarbough asked if this use was considered as the reflexology business or massage business definition within the CZO. Mrs. Firgens said it was both.

Referring to Regular Agenda Item C.2, Commissioner Yarbrough asked if reflexology services should be offered without a physician's recommendation, noting the definition the CZO. Mrs. Firgens said that because the definition included or a licensed massage establishment, as defined in Chapter 455 of the Texas Occupation Code, that these establishments do not have to be under a physician's direction. Mrs. Firgens said as long as such establishments are properly licensed through the State of Texas, they are allowed to operate.

Referring to Regular Agenda Item C.2, Chairman O'Quinn said that it was not known as to what was in Chapter 455 of the Texas Occupation Code. Mrs. Firgens noted that staff reviewed this chapter as part of the case review. Mrs. Firgens noted that cities have the right to regulate the zoning with regards to massage establishments. Mrs. Firgens said that state law also requires massage establishments to be given the same consideration as physician offices. Mrs. Firgens said that while the City's zoning regulations were not exactly consistent with state law, careful consideration should be taken into account.

Referring to Regular Agenda Item C.2, Commissioner Moore asked if, hypothetically, the Commission reccommended denial of this SUP request that City Council could still approve the request. Mrs. Firgens said yes, noting that the Planning and Zoning Commission was only a recommending body.

Chairman O'Quinn commented that Regular Agenda Item D.1 would be brought up during the Regular Meeting. Mrs. Firgens said there were items from the April 9, 2018 Planning and Zoning Commission meeting that would be on the agenda for the May 7, 2018 meeting, noting that Study Session Agenda Item A.2 had already been scheduled.

Chairman O'Quinn commented that Study Session Agenda Items A.3 and A.4 might not be covered at this meeting.

Hearing no further questions or comments from the Commissioners, Chairman O'Quinn closed discussion on this agenda item.

A.2 TMP-2700 Discuss the Texas Open Meetings Act.

Chairman O'Quinn opened discussion on Study Session Agenda Item A.2 Discuss the Texas Open Meetings Act. Chairman O'Quinn introduced Mr. Kevin Laughlin, City Attorney.

Mrs. Firgens added that the purpose of Mr. Laughlin's presentation was to give the Commissioners a refresher on the Texas Open Meetings Act and the importance of the Commission maintaining compliance with this Act. Mrs. Firgens said that the

Commission had recently added agenda item D.1 Items for Future Discussion in order to allow the Commissioners to have discussions regarding items not posted on the agenda at a future date in order to maintain compliance with the Texas Open Meetings Act.

Mr. Laughlin gave a presentation regarding the Texas Open Meetings Act, including addressing the Act's applicability to the Planning and Zoning Commission. Mr. Laughlin provided information related to: Boards and Commissions that are subject to the Act's provisions; agenda posting requirements including that topics on the agenda must be sufficient to inform the public of the subject matter to be discussed and discussion is limited to those items; items for future discussion agenda items, which allows Commissioners to request items to be added to a future meeting agenda and for staff to seek clarification, but that discussion regarding the item shall occur at the future date; what constitutes deliberation by a Board or Commission, including secret deliberations; public decision, minutes, and certified agendas; certain events or activities that are not subject to the Act; closed meetings, including when permissible, appropriate notice and procedures, as well as including consultation with the City Attorney; and actions considered violations of the Act.

Discussion amongst the Commission included the following.

Referring to secret deliberations on items of jurisdiction to a Board or Commission, Commissioner Bertl asked if such discussion had to be deliberate, noting situations in which such discussion may be incidental. Mr. Laughlin said any discussion on City business in which a quorum or more of a governing body is involved could constitute an illegal meeting. Mr. Laughlin said he would caution against the Commissioners discussing City business on social media websites also. Mr. Laughlin said it is important that the public be privy to all City business and matters in which the City's Boards and Commissions have jurisdiction.

Due to meeting time limitations, Mr. Laughlin concluded his presentation and said that the Commissioners could email Mrs. Firgens with questions concerning the Texas Open Meetings Act. Mrs. Firgens asked Mr. Laughlin if he could make himself available at a future Study Session of the Planning and Zoning Commission to address any questions the Commissioners might have to allow for discussion. Mr. Laughlin said this was fine.

Chairman O'Quinn thanked Mr. Laughlin and adjourned the Study Session. Commissioners and staff reconvened in Council Chambers for the Regular Meeting at 7:07 PM.

A.3 TMP-2701 Receive a report regarding zoning and development cases acted upon by City Council.

No discussion.

A.4 TMP-2702 Receive a report regarding projects currently under construction and/or submitted for permit review.

No discussion.

B. REGULAR AGENDA ITEMS

B.1 TMP-2707 Consider approval of the Attendance Matrix for the Planning and Zoning Commission as presented; and take appropriate action.

A motion was made by Commissioner Moore, seconded by Commissioner Yarbrough, that the Attendance Matrix be approved. The motion carried unanimously.

Excused: 3 - Commissioner Brewer, Commissioner Driskill and Vice Chair De Los Santos

Aye: 6 - Commissioner Yarbrough, Commissioner Moore, Commissioner Sullivan, Chairman O'Quinn, Commissioner Bertl and Commissioner Zavala

B.2 TMP-2708 Consider approval of the April 9, 2018 Planning and Zoning Commission Minutes; and take appropriate action.

Chairman O'Quinn said that a correction was needed related to a date on page seven (7) of the Minutes, referring to an October 23, 2017 meeting date.

A motion was made by Commissioner Zavala, seconded by Commissioner Yarbrough, that the Minutes be approved with the correction noted. The motion carried unanimously.

Excused: 3 - Commissioner Brewer, Commissioner Driskill and Vice Chair De Los Santos

Aye: 6 - Commissioner Yarbrough, Commissioner Moore, Commissioner Sullivan, Chairman O'Quinn, Commissioner Bertl and Commissioner Zavala

B.3 18-SP-06 Consider a request for a Detailed Site Plan for office / warehouse buildings located at 1903 Diplomat Drive; and take appropriate action.

The applicant, G&A Consultants, LLC is proposing to develop the property located at 1903 Diplomat Drive in order to build two (2) new office / warehouse buildings. The property is located within Planned Development District No. 22 (PD-22). Staff recommends approval of this Detailed Site Plan as presented.

Mrs. Tina Firgens gave a presentation regarding the applicant's proposal as presented in the staff report.

Chairman O'Quinn opened the floor for questions from the Commissioners.

Commissioner Bertl asked the applicant if the electrical lines at the southeast corner of the site would be moved, noting the presence of Red Oak trees per the landscape plan. Mr. Doug Weaver, the applicant, 111 Hillside Dr, Lewisville, Texas said the electrical lines would be moved south and that this would need to be coordinated with ONCOR.

Commissioner Zavala asked about the construction timeline. Mr. Weaver said construction would begin as soon as plans were approved by the City. Mr. Weaver said he anticipated construction beginning by June.

Chairman O'Quinn asked why the subject site was being divided into two (2) separate properties. Mr. Bucky Gillett, the owner, 228 Village Way C, Santa Ana, California said it was his intention to originally design the site as a single building. Mr. Gillett said there is currently a market demand for buildings under 50,000 square feet. Mr. Gillett said he felt this site plan would be congruent with that demand.

Chairman O'Quinn asked if the subject site was located in the Valwood industrial district. Mr. Gillett said yes.

Chairman O'Quinn asked if market demand in this area was strong. Mr. Gillett said yes and that the vacancy rate was currently less than five (5) percent. Mr. Gillett added that this number was lower for buildings under 50,000 square feet.

Chairman O'Quinn asked if the site design would allow for a single occupant tenant. Mr. Gillett said yes, noting that both buildings are divisible to allow for occupants wishing to own an even smaller space. Mr. Gillett said he was trying to tap into the market of people wishing to own their own buildings.

Chairman O'Quinn commented that the dock doors allow for divisibility between the space. Mr. Gillett said yes.

Chairman O'Quinn asked Mrs. Firgens when this case would go before City Council. Mrs. Firgens said it would be approximately three (3) weeks from this meeting, but that she did not have the exact date. Mrs. Firgens said staff would follow up with the applicant regarding the date.

Hearing no further questions or comments from the Commissioners, Chairman O'Quinn asked for a motion.

A motion was made by Commissioner Zavala, seconded by Commissioner Yarbrough, that this Detailed Site Plan be recommended for approval. The motion carried unanimously.

Excused: 3 - Commissioner Brewer, Commissioner Driskill and Vice Chair De Los Santos

Aye: 6 - Commissioner Yarbrough, Commissioner Moore, Commissioner Sullivan, Chairman O'Quinn, Commissioner Bertl and Commissioner Zavala

C. PUBLIC HEARING

C.1 18-ZA- 03 Conduct a public hearing and consider a request for a zoning amendment to Planned Development District No. 22 (PD-22) to allow hotel uses subject to approval of a Specific Use Permit and a request for a Specific Use Permit with an associated Detailed Site Plan for a hotel located on an approximately 1.82-acre property being the southern portion of the property located at 13998 Diplomat Drive; and take appropriate action.

Chairman O'Quinn explained that this public hearing was originally rescheduled from the March 26, 2018 meeting of the Planning and Zoning Commission to this April 23, 2018 meeting due to an error in public notification. Chairman O'Quinn said staff had since mailed corrected public notification letters for this April 23, 2018 meeting.

Chairman O'Quinn said staff has received a request from the applicant to table this hearing until the May 7, 2018 meeting of the Planning and Zoning Commission to allow time for the applicant to address staff comments. Staff recommends a motion be made to table this public hearing until the May 7, 2018 meeting of the Planning and Zoning Commission.

In lieu of any deliberation or public hearing at this meeting, Chairman O'Quinn asked for a motion.

A motion was made by Commissioner Yarbrough, seconded by Commissioner Moore, that this Zoning Amendment be tabled until the May 7, 2018 meeting of the Planning and Zoning Commission. The motion carried by unanimously.

Excused: 3 - Commissioner Brewer, Commissioner Driskill and Vice Chair De Los Santos

Aye: 6 - Commissioner Yarbrough, Commissioner Moore, Commissioner Sullivan, Chairman O'Quinn, Commissioner Bertl and Commissioner Zavala

C.2 18-SU-06 Conduct a public hearing and consider a request for a Specific Use Permit for a Reflexology (Hand and Foot Massage) and Massage Business located at 12879 Josey Lane, Suite number 115; and take appropriate action.

The applicant, Fang Liu / Natural Foot Spa, is proposing to operate a reflexology (hand and foot) and massage business in one of the existing suites within the existing retail center located at 12879 Josey Lane. The property is located within Planned Development No. 8 (PD-8) / Local Retail (LR-1) zoning district. Staff recommends approval of this Specific Use Permit request as presented.

Mrs. Tina Firgens gave a presentation regarding the applicant's proposal as presented in the staff report.

Chairman O'Quinn opened the floor for questions from the Commissioners.

Mrs. Fang Liu, the applicant, 12879 Josey Lane, Suite Number 115, Farmers Branch, Texas approached the podium. Mrs. Liu was accompanied by her translator, Mr. Xi He, 833 E. Arapaho Road, Richardson, Texas.

Commissioner Yarbrough asked when the business was purchased. Mr. He said late November 2017. Mr. He said at the time the business was purchased, it was his understanding that a massage business was permissible at this location. Mr. He said he later learned it was not, hence this Specific Use Permit request.

Commissioner Yarbrough asked if the applicant had operated a similar business prior to this one. Mr. He said this business was the first one here in the City.

Commissioner Yarbrough asked the applicant to clarify if she bought the suite or the business of massage and reflexology. Mr. He said she purchased the business.

Chairman O'Quinn commented that the applicant purchased the business, Natural Foot Spa, and leased the space from the building owner. Chairman O'Quinn asked if the applicant paid rent to the building owner. Mr. He said yes.

Chairman O'Quinn asked the applicant how long she had been leasing the space. Mr.

He said she took ownership after purchasing the business from the previous tenant in November 2017.

Commissioner Yarbrough asked if there were separate licenses for the reflexology and massage aspects of the business. Mr. He said yes.

Commissioner Yarbrough asked the applicant if she previously had a similar business elsewhere. Mr. He said yes, in Shreveport, Louisiana.

Commissioner Yarbrough commented that the applicant had a massage business in Shreveport, Louisiana and then moved to Farmers Branch to buy the business at the location of the subject site. Mr. He said yes.

Commissioner Yarbrough asked the applicant about the process for obtaining the licenses. Mr. He said the process involved completion of a massage school program and taking an exam to obtain the state license.

Commissioner Yarbrough asked if continuing education was required to maintain the licenses. Mr. He said yes, it was a state requirement.

Commissioner Bertl asked the applicant how long she had been licensed. Mr. He said since March 2017.

Commissioner Bertl asked the applicant if she bought the business as it was operating. Mr. He said yes, explaining that the previous tenant was looking to sell the business.

Commissioner Zavala asked about the applicant's relationship with the previous tenant of the suite and how long the previous tenant had been in business before the applicant purchased the business. Mr. He said the previous tenant was contacted about buying the business after seeing an advertisement in a local Chinese newspaper.

Commissioner Zavala asked if the applicant knew how long the previous tenant had been in business. Mr. He said two (2) to three (3) months.

Commissioner Zavala asked the applicant how much time was left on the lease for the suite. Mr. He said about two (2) and a half years.

Commissioner Moore asked the applicant what was purchased with the business. Mr. He said the customer list and everything inside of the suite was purchased.

Chairman O'Quinn asked the applicant if Natural Foot Spa was running a reflexology and massage business prior to the applicant purchasing the business. Mr. He said yes.

Commissioner Moore asked what is happening with the customers while the business is currently closed. Mr. He said he was not sure.

Commissioner Bertl asked if the applicant has plans for signage for the business. Mr. He noted the plastic sign on the door. Mr. He said there were no plans for signage at the moment because the business is currently closed. Mr. He said it would be more important to pay the rent first.

Commissioner Bertl asked the applicant why she chose to move to Texas from

Louisiana. Mr. He said the location was ideal, noting the proximity to the airport and the population growth of the Dallas-Fort Worth metroplex. Mr. He also mentioned the lower taxes and lower costs to operating a business in Texas.

Commissioner Bertl asked the applicant if she was the licensed therapist. Mr. He said yes. Commissioner Bertl then commented that there was one (1) additional employee to the business. Mr. He said there were three (3) receptionists.

Commissioner Yarbrough asked the applicant whether or not any future therapists hired for the business would be licensed. Mr. He said any therapists hired would have the state license. Mr. He said that additional therapists could be hired if the Specific Use Permit were approved and the applicant was permitted to resume business operations.

Commissioner Yarbrough asked if the floor plan for this business was similar to that of the location in Shreveport, Louisiana. Mr. He said the floor plan was similar.

Commissioner Yarbrough asked about the types of customers that would be coming to the business. Mr. He said customers seeking massages for pain relief or relaxation.

Commissioner Yarbrough asked the applicant about a picture from the Internet depicting three (3) cots, noting this picture came up in a Google search for "Natural Foot Spa". Mr. He said that picture was not representative of the business. Mr. He said each of the massage rooms featured one (1) table.

Commissioner Bertl asked if the suite featured a washer and dryer, commenting that these were not depicted on the floor plan. Mr. He said the washer and dryer were located in the restroom.

Hearing no further questions or comments from the Commissioners, Chairman O'Quinn opened the public hearing.

Mrs. Kelly Anne Battaglia, 3921 Joanna Drive, Farmers Branch, Texas, expressed concern over the applicant's request. Mrs. Battaglia said she believed there was more to the business than the applicant was letting on, noting that there were four (4) massage rooms, but that the applicant was the only therapist for the business. Mrs. Battaglia expressed concern regarding the relationship between the applicant and Mr. He and stated she felt this type of business was not congruent with the current redevelopment of the Four Corners area of the City.

No one else came forward to speak to this agenda item. Chairman O'Quinn closed the public hearing.

In response to Mrs. Battaglia's comments, Mr. He said he was a Certified Public Accountant (CPA). Mr. He stated that the applicant was his client and that is why he knows a lot about the applicant's business. Mr. He said the business would be legitimate and said he believed it was important for the City to feature a variety of businesses.

Hearing no further questions or comments, Chairman O'Quinn asked for a motion.

A motion was made by Commissioner Sullivan, seconded by Commissioner Yarbrough, that this Specific Use Permit be recommended for approval. The motion failed by the following vote:

Excused: 3 - Commissioner Brewer, Commissioner Driskill and Vice Chair De Los Santos

Nay: 4 - Commissioner Moore, Chairman O'Quinn, Commissioner Bertl and Commissioner Zavala

Aye: 2 - Commissioner Yarbrough and Commissioner Sullivan

D. ITEMS FOR FUTURE CONSIDERATION

D.1 TMP-2709 Discuss agenda items for future Planning and Zoning Commission consideration.

Hearing no discussion on this agenda item from the Commissioners, Chairman O'Quinn closed discussion on this agenda item and adjourned the meeting.

E. ADJOURNMENT

The meeting was adjourned at 8:00 PM.

Farmers Branch City Hall is wheelchair accessible. Access to the building and special parking are available at the main entrance facing William Dodson Parkway. Persons with disabilities planing to attend this meeting who are deaf, hearing impaired or who may need auxiliary aids such as sign interpreters or large print, are requested to contact the City Secretary at (972) 919-2503 at least 72 hours prior to the meeting.

Certification

I certify that the above notice of this meeting was posted 72 hours prior to the scheduled meeting time, in accordance with the Open Meetings Act, on the bulletin board at City Hall.

Chairman

Brian Campbell
City Administration

Stamp:

Posted By: _____

Posted Date:_____