



Legislation Details (With Text)

File #: 18-100 **Version:** 1

Type: New Business **Status:** Approved

File created: 4/11/2018 **In control:** City Council

On agenda: 5/1/2018 **Final action:** 5/1/2018

Title: PUBLIC HEARING: Consider an ordinance approving a Specific Use Permit (SUP) to allow Body Speak to provide massage therapy services within Crossfit PAF, a 2,400 square-foot lease space within a 4,941 square-foot building, located on a 0.41-acre tract of land, approximately 340 feet south from the intersection of Pecan Street and South Elm Street, being Lot 1-R, Block I, Bear Creek Commercial Addition, at 322 South Elm Street, and zoned OTK (Old Town Keller). Linda Deaton-Gilbert, applicant. James Dyer, owner. (SUP-18-0009).

Attachments: 1. 050118_BodySpeak_Ord. No. 1884, 2. 050118_BodySpeak_ExhibitA_Narrative_and_FloorPlan, 3. 050118_BodySpeak_PZ_Minutes_04092018, 4. 050118_BodySpeak_StaffAttachment_KellerCodeofOrdinances, 5. 050118_BodySpeak_Maps, 6. 050118_BodySpeak_StaffAttachment_Support_Letters, 7. H-1 Presentation

Date	Ver.	Action By	Action	Result
5/1/2018	1	City Council		
5/1/2018	1	City Council		

To: Mark Hafner, City Manager

From: Susan Kenney, Director of Community Development

Subject:

PUBLIC HEARING: Consider an ordinance approving a Specific Use Permit (SUP) to allow Body Speak to provide massage therapy services within Crossfit PAF, a 2,400 square-foot lease space within a 4,941 square-foot building, located on a 0.41-acre tract of land, approximately 340 feet south from the intersection of Pecan Street and South Elm Street, being Lot 1-R, Block I, Bear Creek Commercial Addition, at 322 South Elm Street, and zoned OTK (Old Town Keller). Linda Deaton-Gilbert, applicant. James Dyer, owner. (SUP-18-0009).

Action Requested:

To conduct a public hearing and consider a recommendation of a Specific Use Permit (SUP) to allow Body Speak to provide massage therapy services within a 2,400 square-foot lease space.

Property Description:

Located on a 0.41-acre tract of land, being Lot 1-R, Block I, Bear Creek Commercial Addition, at 322 South Elm Street

Owner:

James Dyer

Applicant:

Linda Deaton-Gilbert

Zoning:

OTK (Old Town Keller)

Background:

The proposed use will be located in a 2,400 square-foot lease space contained in a 4,941 square-foot multi-tenant building. According to Tarrant County Appraisal District, the building was constructed in 1990.

On July 7, 2015 City Council approved the 2015 UDC Update which adjusted the permitted uses in OTK (Old Town Keller). The use table for the OTK zoning district specifies that a spa to include cosmetologists (hair, nails, face) and massage therapists licensed in TX would require an SUP.

A Certificate of Occupancy was issued for Crossfit PAF on January 31, 2017.

Analysis:

The purpose of this SUP is to allow massage therapy services within an approximately one hundred forty-four (144) square foot room and an office within an approximately ninety-six (96) square foot room, located within the 2,400 square-foot lease space.

Crossfit PAF currently operates as a fitness center. The UDC definition for a fitness center is as follows:

“157. Fitness Center - Any recreational facility where all activities are contained within an enclosed building which is open to the general public for a fee or charge. Such facilities may include, but are not limited to, aerobic exercise, tennis, swimming or racquet facilities, gymnasium, weight room, sauna or other associated recreational activities; to include dance studio, gymnastics and aerobic center; A space in which people learn or rehearse dance routines or aerobic exercise. The term is typically used to describe a space that has either been built or equipped for the purpose. A dance studio or aerobic center normally includes a smooth floor covering or, if used for tap dancing, by a hardwood floor.”

The area designated for providing massage therapy is located in the back of the lease space and separated by walls from the main floor area. An SUP is required for any business which has massage therapy services.

Services would be offered by an independent massage therapist who is fully licensed by the Texas Department of State Health Services.

Operation Schedule:

The applicant has stated that the hours of operation for offering massage therapy services would be Monday-Friday 8:00 a.m. to 6:00 p.m. and Saturday 8:00 a.m. to 12:00 p.m.

License Requirements:

The use or auxiliary use of massage therapy services is required to be licensed by the Texas Department of State Health Services. The City of Keller Code of Ordinances also requires licensing through the Police Department.

The operation of a massage parlor is also regulated by the City Code of Ordinances. The Code of Ordinances sets the City licensing requirements, license fees, hours of operation, sanitary requirements, inspections, and required documentation. The hours of operation restricted by the City

of Keller Code of Ordinances are from 8:00 a.m. to 9:00 p.m. It also defines a “massage parlor” as “any building, house, room, or place where massage is practiced upon the human body by any person other than a duly licensed medical doctor, doctor of osteopathy or chiropractor.” A copy of Chapter 8, Article II. - Massage Parlors and Massage Establishments has been included in the “Staff Attachments.”

Building Exterior:

No exterior improvements are proposed, the approximately two hundred and forty (240) square foot space exists inside the 2,400 square foot lease space.

Parking Requirements:

Per UDC Section 8.07, Off-street parking and loading requirements indicates ‘Dance hall, Aerobics’ to be considered as one (1) space for three (3) persons. The current Certificate of Occupancy for Crossfit PAF indicates an occupant load of twenty-eight (28) which would require approximately nine (9) parking spaces. The owner indicated that she and one (1) client would be in the massage therapy room which would require an additional two (2) parking spaces. The total parking spaces needed for the Crossfit PAF and Body Speak are eleven (11) spaces and the current parking spaces available on the subject property is twelve (12).

Existing Roadway Access:

South Elm Street, a two lane street.
Bear Creek Parkway, a two lane street to the south.

Surrounding Zoning & Land Uses:

North, South, West, East: Various retail uses zoned OTK (Old Town Keller)

Summary:

Section 8.04 (B.2.a) of the UDC states that when considering a SUP request, the Planning and Zoning Commission and City Council shall consider the following factors:

- 1) The use is harmonious and compatible with surrounding existing uses or proposed uses;
- 2) The activities requested by the applicant are normally associated with the permitted uses in the base district;
- 3) The nature of the use is reasonable and appropriate in the immediate area;
- 4) Any negative impact on the surrounding area has been mitigated; and
- 5) That any additional conditions specified ensure that the intent of the district purposes are being upheld.

Citizen Input:

On March 29, 2018, as required by State law, the City mailed out twenty-three (23) letters of notifications for a Public Hearing, to all property owners within three hundred feet (300’) of the subject site. A sign was also posted on the site.

The applicant supplied staff with support letters, included in the “Staff Attachments,” from the adjacent property owners.

Professional Opinion:

Staff is in support of this request for an SUP, to allow a massage therapist in an existing fitness center within Old Town Keller zoning district. The use of massage therapy is allowed by a Specific Use Permit in Old Town Keller (OTK) and the use is often associated with fitness and health uses. The massage therapy services would be supported by the main use (aerobics/fitness center) of the lease space. The proposed use is an auxiliary use to the fitness center and is appropriate.

Staff forwards this Specific Use Permit application for City Council consideration with the following conditions:

1. The Specific Use Permit for Body Speak to occupy approximately two hundred and forty (240) square feet for the use of massage therapy services shall be considered.

This condition for this SUP is specific to this business. Any new similar type business (spa to include cosmetologists (hair, nails, face) and massage therapists licensed in TX) would require a new SUP application.

Board Review:

The Planning and Zoning Commission considered this specific use permit application on April 9, 2018 and recommended approval as submitted by a vote of 7-0.

Alternatives:

The City Council has the following options when considering a Specific Use Permit:

- Approve as submitted
- Approve with modified or additional condition(s)
- Table the agenda item to a specific date with clarification of intent and purpose
- Deny