

**MINUTES OF THE PLAN COMMISSION MEETING HELD AT THE
GREENFIELD CITY HALL ON TUESDAY, DECEMBER 13, 2016**

1. The meeting was called to order at 6:30 p.m. by Mayor Neitzke

ROLL CALL:	Mayor Michael Neitzke	Present
	Ald. Karl Kastner	Excused
	Mr. Brian Weis	Excused
	Ms. Denise Collins	Excused
	Ms. Christine Hallen	Present
	Mr. Bradley Sponholz	Present
	Mr. Steve Rogers	Present
	Mr. Don Carlson (alt.)	Present
	Mr. Robert Krenz (alt.)	Present

ALSO PRESENT: Charles Erickson – Community Development Manager

2. Motion by Mr. Sponholz, seconded by Mr. Rogers to approve the November 8, 2016 Regular Meeting minutes. Motion carried 4-0-2 with Ms. Hallen and Mr. Carlson abstaining.

3. Discussion regarding the Common Council meeting held on November 15th & December 6th. At the November 15th meeting the Special Use approval for TGIF's (4638 S. 76 Street) was approved as recommended by the Plan Commission, along with the CSMs for 45th & Grange and 84 South.

At the December 6th meeting the Public Hearing was held for The Sanctuary multi-family apartments at 43rd Street, north of Cold Spring Road, and was approved as presented on a 4-1 vote. The Site/Building/Landscaping approval will come before a future meeting. It was noted that the traffic that will be generated by The Sanctuary along 43rd Street will need Board of Public Works review. The notification of the public hearing process was questioned by several residents. It was noted that a 400 foot radius is used, as required by our Code.

4. Yongbin Wu, Grand Japanica Inc., 7075 W. Southridge Drive, #73, Greenfield, WI 53220 requests a Special Use Review approval as the new owner/operator of Japanica Restaurant at 4918 S. 74th Street. Tax Key #617-9975-024.

1. Background: New owner/operator of the Japanica Restaurant at Greenfield Place. No other operational changes proposed, but there will be a new name: 'Grand Japanica'.
2. Hours of Operation: To remain unchanged:
 - Monday – Thursday: 11:30 a.m. – 10:00 p.m.
 - Friday & Saturday: 11:30 a.m. – 11:00 p.m.
 - Sunday: Noon – 9:30 p.m.
3. Miscellaneous: Regular maintenance and cleaning of the commercial kitchen hood and duct system are required. In addition, the fire sprinkler system should be cleaned and properly maintained.

Recommendation: Approved subject to Plan Commission and staff comments, and authorize this item to be expedited to the December 20th Common Council meeting.

Mr. Wu and Mr. Chen, the current owner, were present to answer questions.

Motion by Mr. Carlson, seconded by Mr. Rogers, to recommend approval of a Special Use Review for Yongbin Wu as the new owner/operator of Grand Japanica Inc., 4918 S. 74th Street, subject to Plan Commission and staff comments, and authorize this item to be expedited to the December 20th Common Council meeting. Tax Key #617-9975-024. Motion carried unanimously.

5. **Wui Chun Chau and Cui Fang Xie, Power Massage LLC, 1325 S. 92nd Street, West Allis, WI 53214, requests a Special Use to open ‘Power Massage’ at 3777 S. 108th Street in the Garden Mall property. Tax Key #563-9986-008.**

1. Background: Ms. Chau and Ms. Xie have proposed to open the massage business at this location in the Garden Mall under their ownership called ‘Power Massage’; formerly a business called ‘King Massage’ was in that same tenant space.

When King Massage opened in 2014 massage parlors were considered a Permitted Use, but in 2015 that type of use was designated as a Special Use (Ord. 2826). As a new application coming in for a type of use that is now designated as a ‘Special Use’, is why this request is categorized as a new Special Use – as such that normal processing, with a public hearing at a future Common Council meeting, will be needed.

Ms. Chau and Ms. Xie have submitted the following materials:

- PC application
- State of Wisconsin Dept. of Safety & Professional Services license granted to Ms. Xie on 9/21/16 as a ‘Massage Therapist & Bodywork Therapist’; expires 2/28/17. Ms. Chau does not have the similar State of Wisconsin license.
- Document titled “..Member’s Interest Purchase Agreement & Assignment..” whereby Ms. Chau is buying the massage business for \$100 from Mr. Lai, owner of King Massage; closing date was 9/30/16.
- Excerpt of the Lease agreement between Garden Mall and Ms. Chau effective 9/28/16 – 10/1/19 for the same tenant space at 3777 S. 108th Street.
- Ms. Chau filing her LLC with the State of Wis. Dept. of Financial Institutions.
- Certification of Liability Insurance for this location effective 12/1/16 to 12/1/17.
- IRS assignment of an Employer ID # dated 11/21/16.
- Their respective Driver’s Licenses and Social Security cards.

Staff materials are as follows:

- Excerpt of GIS Map system showing Garden Mall property-related data (i.e. ownership, lot size, assessment, etc.) and an aerial photo of the site.
 - Excerpt of the Zoning Code pertaining to ‘Special Use Standards & Regulations’ – 21.04.0700.
 - Ord. #2826 regarding ‘Massage Parlors’ becoming a Special Use; passed Oct. ’15.
2. Police Department: Per attached email from Chief Wentlandt, the PD would recommend that no Special Use be issued. King Massage was the target of an on-going prostitution investigation one year ago. During that investigation Ms. Chau was charged with prostitution and that case is pending. Attached are the detailed PD Incident Reports regarding that investigation.

WARNING: These reports contain graphic content.

3. Miscellaneous: Typically a public hearing for a new Special Use request will occur 4 – 6 weeks from the PC meeting date, at a future Common Council meeting. The property owner mailing list created by the 400’ radius lines around this parcel for the public hearing will be shared with

Ms. Chau and Ms. Xie. If they want to do some basic outreach in advance of the formal public hearing at a future Common Council meeting similar to what is suggested for all other items coming before the Council that include a public hearing, then that will be their determination.

Recommendation: Deny the Special Use request subject to Plan Commission and staff comments, and authorize the public hearing process to proceed. Per the 'Adverse Impact' section of the Special Use Standards [[Chp. 21.04.0701(A)(2)]], it is believed that the proposed use will have a substantial and undue adverse and detrimental effect upon and endanger adjacent property, the character of the area, and the public health, safety, morals, comfort, and general welfare, and substantially diminish and impair property values with the community and neighborhood.

Ms. Chau and Ms. Xie were present to answer questions. Also present was Jeff Kottke (in assisting applicants due to language limitations). Ms. Chau submitted two additional letters: November 21, 2016 from the Milwaukee County District Attorney's office regarding the changes against Ms. Chau; and November 22, 2106 from Atty. Leah Thomas on behalf of Ms. Chau regarding these charges.

Mayor Neitzke questioned Ms. Chau and Ms. Xie if they had an opportunity to review the Plan Commission packet materials. Mr. Kottke, on behalf of Ms. Chau and Ms. Xie, said yes they had done so. Mayor Neitzke referenced a letter from Attorney Leah Thomas that was received indicating that there will be no criminal charges filed at the District Attorney's office in this matter. It does appear that there has been contact with the City's prosecutor for Greenfield to seek dismissal of the citation that was issued. It is not clear if this has happened yet, to which Mr. Kottke replied that when word is heard from Greenfield it will be passed on to the applicant's lawyer.

Mayor Neitzke said what is mentioned in the Police reports is criminal behavior and, in relation to the Zoning Code and the section on Adverse Impact, there certainly seems to be a tie in to it being criminal activity. Mayor Neitzke referenced Section 21.04.0701/General Standards for Special Uses in the materials that were submitted in the packet to the Plan Commission. He said he feels this Section presents strong evidence to consider a denial, based on the adverse impact that it would bring to the area.

He noted that the Plan Commission is a recommending body. Mr. Kottke stated that Power Massage will not be anything like King Massage, which is why Ms. Chau is seeking to take it over as her own business and run it as a "regular" massage parlor.

Ms. Hallen stated that regardless, it still falls under the Special Use category. Mayor Neitzke stated that the parties involved also remain the same (Ms. Chau), while the roles are proposed to change slightly from employee to business owner. As a Special Use it is subject to a Public Hearing, and is ultimately up to the Common Council to decide if it is approved or denied. Mr. Kottke stated that Ms. Chau is following legitimate channels to establish this business, to which Mayor Neitzke noted that those things have been placed in the record and will be provided to the Common Council, along with the Police reports.

Mr. Kottke stated that Ms. Chau is trying to do things correctly and establish a business for herself. In regard to Mayor Neitzke referring to the items outlined in the reports, Mr. Kottke stated that what is noted is not a "history" of behavior, but rather an incident. Mayor Neitzke stated that it appears Mr. Kottke's definition of history differs from his own. It was noted that the Public Hearing would be held in approximately 4 to 6 weeks. It was recommended that an attorney or representative attend the Public Hearing to aid Ms. Chau in communication and interpretation of the discussion that will occur.

Mayor Neitzke again stressed that this proposed use requires a Special Use, which requires a Public Hearing. Therefore, no business is to be conducted until after the Public Hearing is held, and then only if the Special Use is approved. Mr. Kottke then asked if the business can be open since it is “in the process” of being purchased by Ms. Chau from her cousin, so therefore would it not still be active? Mayor Neitzke stated “No” even though it appears that Ms. Chau has purchased the business already and registered it as an LLC. This is why it is best that Ms. Chau refer to her own legal counsel on this matter.

Mr. Erickson stated that based on the materials that Ms. Chau had submitted, there is a Member Interest Purchase Agreement, showing her purchase of the property from the prior owner at the end of September, 2016, and entered into a lease agreement at this time also. The business in is Ms. Chau’s name, but it was again reiterated that until Ms. Chau has a Special Use in hand she may not operate there. Also noted was that the former operator may not conduct business at this location as he has sold the business to Ms. Chau. The prior owner was not required to operate as a Special Use at the time he opened, however, since that time Code provisions require this type of establishment to operate as a Special Use.

Mr. Kottke questioned that even though Ms. Chau is paying rent at this location, is she is not able to open until the Special Use is granted? To which Mayor Neitzke again stressed that no, this business cannot be open at this time. It is in the best interest of Ms. Chau to have legal counsel answer questions as to the specifics of her lease agreement. It was questioned where the Notice of Public Hearing would be sent, as Ms. Xie has provided an Illinois drivers license with a Chicago address, Ms. Chau’s driver’s license has a South Milwaukee address which apparently isn’t current, and the address of the business location is on the application but which can’t be opened. Ms. Chau then provided a West Allis mailing address to Mr. Erickson. [[The address referenced on the agenda for these minutes shows this most current West Allis address for Ms. Chau.]]

Motion by Mayor Neitzke , seconded by Ms. Hallen, to recommend to deny the Special Use request of Wui Chun Chau and Cui Fang Xie to open Power Massage LLC at 3777 S. 108th Street, subject to Plan Commission and staff comments, and also based on the materials provided and in part based on the provisions of Zoning Code Section 21.04.0701 with regard to General Standards for Special Uses and Adverse Impacts, and authorize the Public Hearing process to begin. Tax Key #563-9986-008. Motion carried unanimously.

6. Community Development Manager Report.

Mr. Erickson stated that coming to a future Plan Commission will be a potential rezoning related to the plans for an outdoor education area at Glenwood School, located within the wooded area south of the school. The entire parcel is currently zoned Institutional. If the woods were rezoned to a Park & Recreation designation it would be more beneficial in ensuring the woods would remain for the long-term.

Mayor Neitzke spoke on the latest developments at the 84 South. Portillos is going up with the roof trusses in and the Midbox East building (the retail center portion) has the walls going up. He also stated he met with interested parties for both Spring Mall and the former Office Depot space.

7. Motion by Mr. Carlson, seconded by Mr. Sponholz, to adjourn the meeting at 7:30 p.m. Motion carried unanimously.

Respectfully submitted,

Alison J. Meyer
Administrative Assistant

Distributed December 19, 2016