

# Staff Summary Report



Hearing Officer Hearing Date: 11/15/11

Agenda Item Number: 4

**SUBJECT:** This is a public hearing for a request by **YUSHI MASSAGE SPA** located at 4415 South Rural Road, Suite No. 7, for one (1) use permit.

**DOCUMENT NAME:** 20111115cdsl03 **PLANNED DEVELOPMENT (0406)**

**COMMENTS:** Request by **FAIRLANES CENTER- YUSHI MASSAGE SPA (PL110373)** (Yong S. Kim, applicant; Rocky Krosschell/Retail Investment Group, property owner) located at 4415 South Rural Road, Suite No. 7, in the PCC-2, Planned Commercial Center General District for:

**ZUP11098** - Use permit to allow a massage establishment.

**PREPARED BY:** Sherri Lesser, Senior Planner (480-350-8486)

**REVIEWED BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

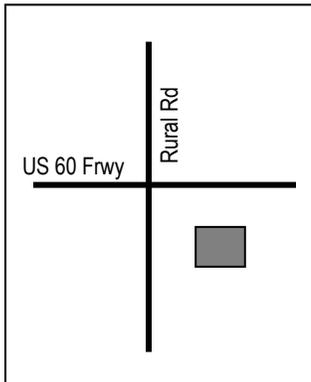
**LEGAL REVIEW BY:** N/A

**DEPARTMENT REVIEW BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

**FISCAL NOTE:** There is no fiscal impact to City funds.

**RECOMMENDATION:** **Staff – Approval , subject to conditions**

**ADDITIONAL INFO:**



The applicant is requesting approval of a use permit for a massage establishment within the Fair Lanes Village Center. The site is located on the east side of Rural Road just south of the US 60 (Superstition Freeway). Staff supports the applicant's request for the use permit owing to compatibility with the present business operations at the property and lack of any apparent nuisances. To date, no public input has been received.

**PAGES:**

1. List of Attachments
2. Comments; Reasons for Approval
3. Conditions of Approval; History & Facts
4. Description; Zoning & Development Code Reference

**ATTACHMENTS:**

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Site plan
5. Floor plan

## COMMENTS:

The applicant is before the Hearing Officer to request a use permit for a Massage Therapy business located at 4415 South Rural Rd, Suite No. 7 at the Fair Lanes Village Center. The business employs 2 therapists and will be open Monday through Saturday 9:00 to 7:00 pm. The business will provide oriental acupressure/massage, shiatsu, Swedish, deep muscle tissue, sports, pre-natal, light touch, salt glow and reflexology massages.

## Use Permit

The Zoning and Development Code requires a use permit for massage establishments in all commercial zoning districts. Staff supports the use permit as described in the letter of explanation. This use permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general. The proposed business is compatible with the building and the adjacent businesses. The site has ample parking spaces available to accommodate this use.

This use permit request meets all applicable tests in the following manner:

Evaluating the use permit, the proposal appears to pass the use permit test listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
  - *There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.*
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
  - *This is a service use, similar to others within the shopping center; there should be no nuisances.*
- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
  - *The proposed development would not contribute to neighborhood deterioration or downgrade property values. This use permit request is consistent with the General Plan 2030's Land Use Element. The requested use permit will not be detrimental to the surrounding area, but will further the General Plan Land Use Element Goals and Strategies.*
- d. Compatibility with existing surrounding structures and uses;
  - *The proposed use appears to be compatible with surrounding uses.*
- e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public:
  - *The proposed use will not create a nuisance.*

## Conclusion

Staff recommends approval of the request with conditions. To date, there has been no opposition to this use permit application.

## REASON(S) FOR APPROVAL:

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.
3. Traffic generated by this use should not be excessive.
4. The use appears to be compatible with the building, site and adjacent property.

**SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.**

**CONDITION(S)  
OF APPROVAL:**

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
2. The use permit is transferable. Should the business be sold, the new owners must reprocess for administrative review.
3. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer/Board of Adjustment.
4. Any expansion or intensification of use shall require a new use permit to be approved.
5. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing set to re-evaluate the appropriateness of the use permit.
6. All required State, County and Municipal permits shall be obtained or the use permit is void.
7. All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the use permit becoming effective.
8. All business signs shall be Development Review approved and permits obtained.

**HISTORY & FACTS:**

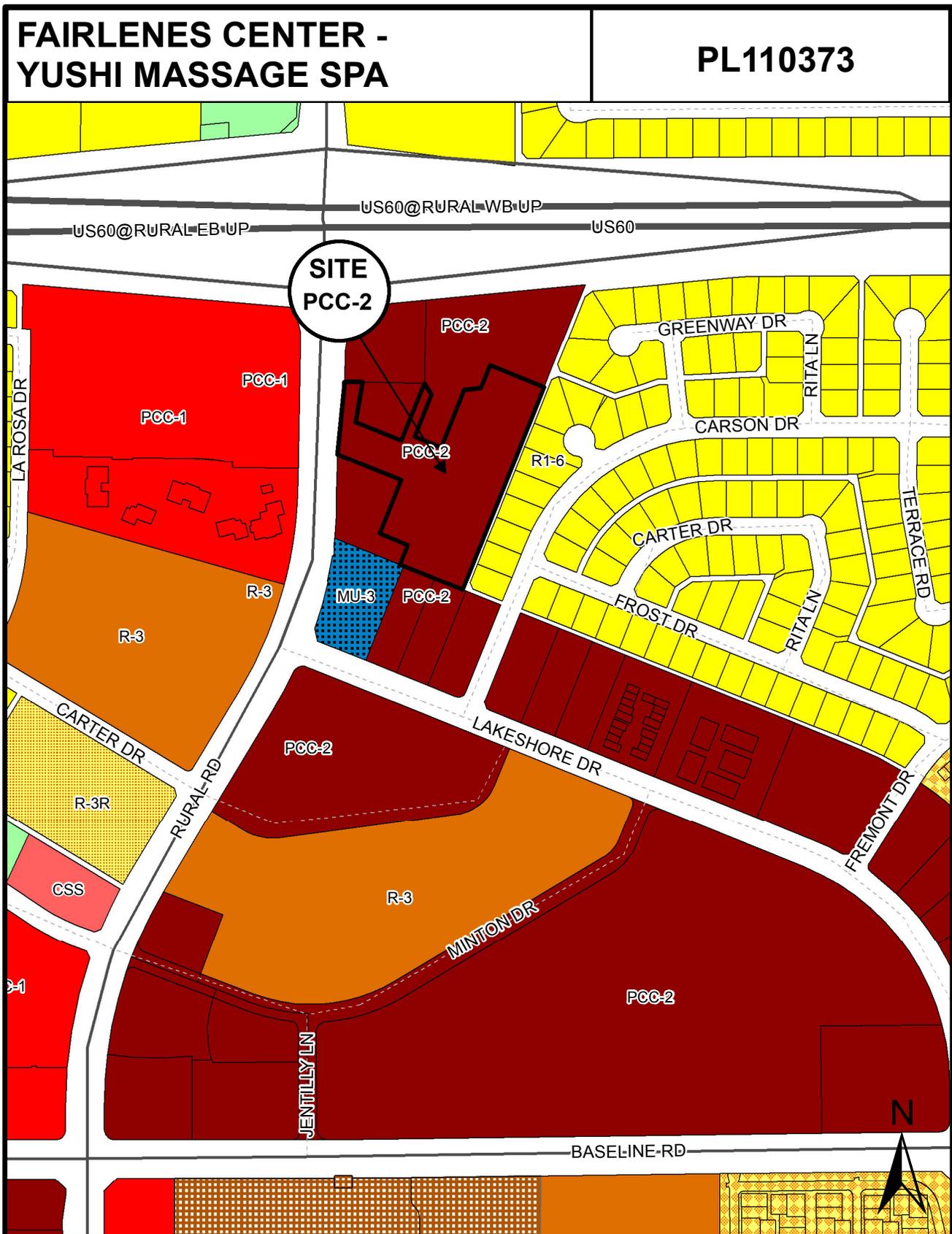
- July 19, 2005. The Hearing Officer approved a use permit for Massage Elite for a massage establishment/day spa located at 4435 South Rural Road suite 1, subject to conditions.
- September 20, 2005 The Board of Adjustment held a review of the following for possible revocation of the use permit per the City of Tempe Attorney office's direction due to non-compliance with the conditions of approval:
- Request by FAIRLANES VILLAGE CENTER -MASSAGE ELITE for a use permit to allow a massage therapist as a full service day spa located at 4435 South Rural Road, Suite No.1, in the PCC-2, Planned Commercial Center General District.
- The applicant was granted a continuance to comply with conditions.
- April 20, 2006. Tempe Police Officers conduct investigation resulting in an arrest at Massage Elite for prostitution and no city license.
- May 6, 2006. The Planning Division of the Development Services Department denied the request to transfer the use permit from Mr. Jinqi (William) Pang to Ms. Qin Puccio based on a recommendation from the Tempe Police Department regarding criminal activity.
- August 22, 2006. The business officially closed.

**DESCRIPTION:**

Owner – Retail Investment Group  
Applicant – Yong S. Kim  
Existing Zoning – PCC-2, Planned Commercial Center General District

**ZONING AND  
DEVELOPMENT  
CODE REFERENCE:**

Part 6, Chapter 3, Section 6-308- Use permits



**Location Map**



**FAIRLANES CENTER - YUSHI MASSAGE SPA (PL110373)**

ORIENTAL  
ACUPRESSURE/MASSAGE,  
SHIATSU  
AND THE FOLLOWING MASSAGES  
AVAILABLE:

SWEDISH

DEEP MUSCLE TISSUE

SPORTS

PRE-NATAL

LIGHT TOUCH

SALT GLOW

REFLEXOLOGY

M-S 9-7  
2 message therapist

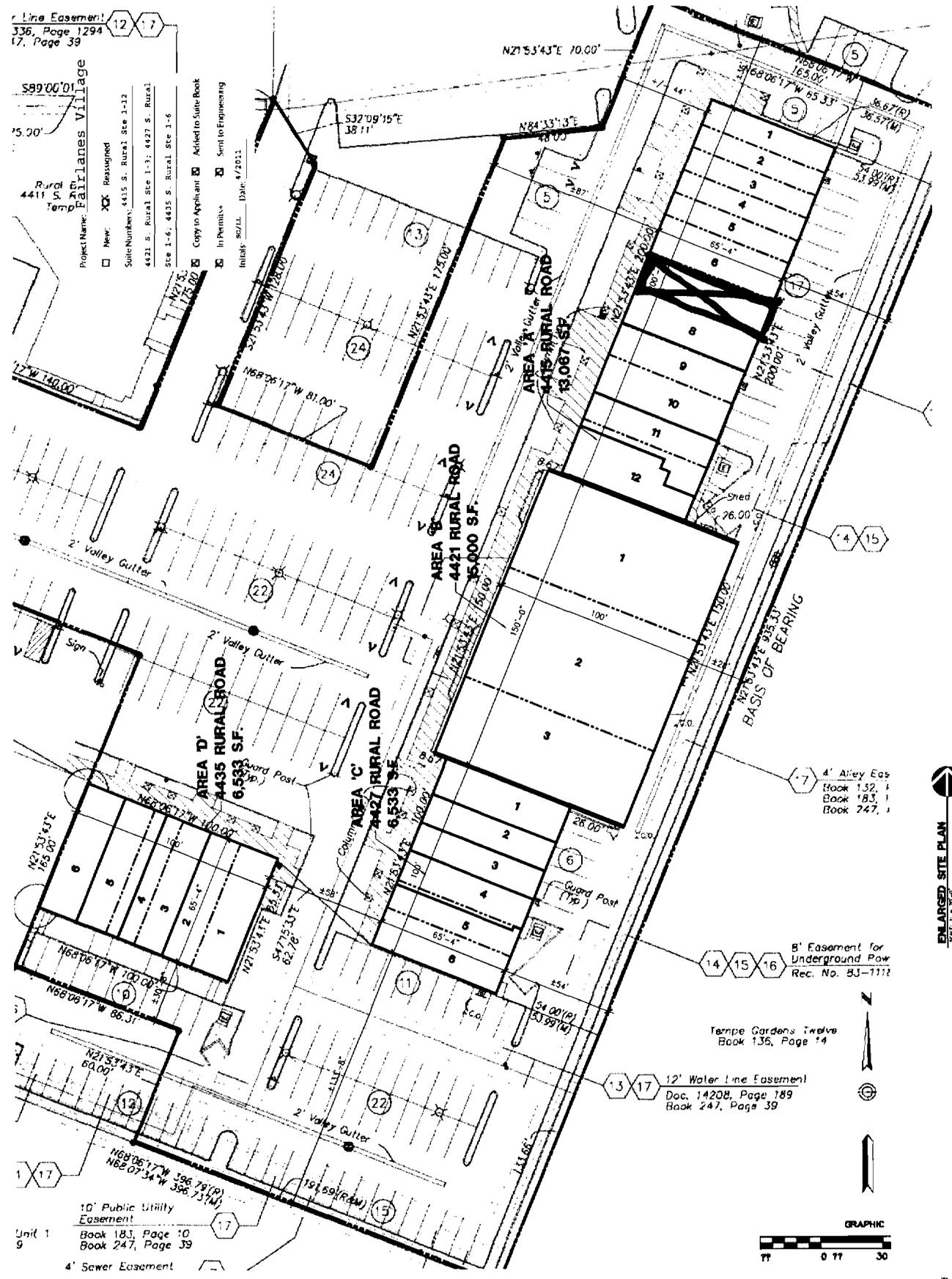
**ADG**  
 ARCHITECTURAL DESIGN GROUP, INC.  
 ARCHITECTS AND PLANNERS  
 4401 S. FAIRLANES VILLAGE  
 SUITE 100  
 TEMPE, ARIZONA 85281  
 (602)944-0075

FAIRLANES VILLAGE CENTER  
 A CONDOMINIUM DEVELOPMENT OF A PORTION OF  
 TRACT E OF LAKE COUNTRY ESTATES  
 TEMPE, ARIZONA

NO.	DATE	REVISION

**ENLARGED EXISTING SITE PLAN**

**SP-2**  
 Date: 4/28/11  
 Drawn by: MTD  
 Checked by: JLC  
 A0511  
 Sheet No.



**ENLARGED SITE PLAN**  
 SCALE: 1" = 20'



