



CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

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February 15, 2018

CHAIR AND PLANNING COMMISSIONERS
City of Long Beach
California

RECOMMENDATION:

Recommend that the City Council adopt Negative Declaration ND-05-17, and approve a Zoning Code Amendment (ZCA17-012) and submittal of a Local Coastal Program Amendment (LCPA17-007) to amend the Long Beach Municipal Code Chapter 21.15 and Sections 21.32, 21.33, 21.34 and 21.35, related to defining and permitting Massage Establishments. (Citywide)

APPLICANT: City of Long Beach
333 West Ocean Boulevard
Long Beach, CA 90802
(Application No. 1705-04)

DISCUSSION

The Long Beach Municipal Code contains regulations for massage establishments and massage technicians for the protection of public health, safety, and welfare. The regulations are located in both Title 5, Regulation of Businesses, Trades, and Professions, and Title 21, Zoning. Title 5 sets forth definitions and operational standards while Title 21 sets forth which zoning districts allow accessory massage establishments. Changes in State law triggered the need for cities to update regulation of massage establishments. In 2008, Senate Bill 731 was signed into law and authorized the creation of the Massage Therapy Act (set to conclude at the end of 2014). Subsequently, Assembly Bill 1147 (AB 1147) was enacted (effective January 1, 2015) to replace – and to some extent, “fix” – Senate Bill 731. The proposed ordinance responds to provisions of AB 1147.

State Law

The primary goals of SB 731 were to professionalize the massage industry and create universal, State-wide standards for massage businesses and practitioners. The Bill prohibited local jurisdictions from imposing land use regulations on massage businesses that were different from those imposed on other professional services, provided operators and practitioners within the establishment were certified by the California Massage Therapy Council (CAMTC). The CAMTC is a nonprofit public benefit corporation created under the Bill to oversee a voluntary certification process for massage practitioners. This stripping of local controls had the unintended consequence of causing the proliferation of illicit

massage establishments and an increase in prostitution and human trafficking cases in many jurisdictions.

Adoption of AB 1147 restored local regulatory authority over massage businesses and practitioners by allowing local governments to impose reasonable conditions on licensing, operations, and business locations. The Bill also made CAMTC certification mandatory, thereby dividing regulation responsibility between State and local governments. Assembly Bill 1147 allows local governments to use their regulatory and land use authority to ensure the best interests of the community, such as ensuring public safety, reducing human trafficking, and implementation of local standards.

Assembly Bill 2194, which went into effect on January 1, 2017, extended AB 1147 for an additional four years and expanded sections of the original bill related to regulatory fees, facility standards, and CAMTC background check policy.

Proposed Ordinance Amendments

Current Title 5 contains massage operator and practitioner licensing requirements, facility standards, and inspection criteria. These regulations, in Section 5.58, Massage Establishments, and last amended in 1998, are proposed to be amended and restated entirely. The proposed amendments to Title 5 are intended to provide safeguards against personal injury and economic loss due to improperly trained or undereducated massage practitioners and safeguards against prostitution, sex trafficking, and other unlawful sexual activities that have been known to occur in establishments offering massage services.

Specific amendments to Title 5 include requiring mandatory CAMTC certification – and certification maintenance; certification is for a two-year time period – for all massage practitioners, Police Department review of all massage operator and practitioner license applications, a prohibition on operating hours between 10:00 p.m. and 7:00 a.m., and a prohibition on the use, possession, or sale of adult-oriented merchandise, alcohol, or controlled substances. Information on the proposed Title 5 amendments is included in this report (and detailed in the report's ordinance exhibit) for contextual purposes only. The requested Planning Commission action is for a recommendation on proposed amendments to Title 21, only.

Currently, Title 21 identifies uses where massage services are the primary business conducted on the premises as a "Massage Parlor" and classifies them as an Adult Entertainment Business, as defined in Section 21.15.110. This classification includes uses such as adult book stores, adult motion picture theaters, cabarets, and sexual encounter centers. However, the stigma associated with massage uses has changed over time. By and large, massage establishments are now perceived as a personal service suitable to be located within shopping centers or other commercial areas.

Adult Entertainment Business uses are subject to Special Development Standards located in Section 21.45.110 that include restrictions on possible locations (separation

requirements from residential zones, schools, parks, churches, other Adult Entertainment Businesses). This section also includes outright prohibition of such uses on specific street sections identified by the Long Beach Police Department as problematic (experiencing a high rate of arrests for prostitution, lewd behavior, and disorderly conduct), business hours of operation (mandatory ceasing of operations between 12:00 a.m. and 9:00 a.m.), and site security.

The following section describes the proposed Zoning Code changes, which are contained in the Draft Zoning Code Amendment (Exhibit A – Draft Zoning Code Amendment and Redlined Text).

The proposed modifications to Title 21 would redefine a business engaged in primary use massage services as a “Massage Establishment”. It would remove the use from the Adult Entertainment Business classification, instead defining it as a personal service use subject to approval of an Administrative Use Permit (AUP) in all commercial zones and Planned Development Districts that permit commercial uses. The AUP process would allow for public notification of new requests, a decision in a public forum (Zoning Administrator action, subject to Planning Commission appeal), and a case-by-case evaluation of the proposed location and business operations. Additionally, the AUP requirement creates an additional enforcement tool for permitted establishments that are found to be in violation of their conditions of approval. Such enforcement actions could include a revocation hearing for those permitted establishments that do not come into compliance for identified violations.

Massage services will remain a permitted, by-right accessory use (accessory use being defined in the City of Long Beach as no more than 49 percent floor area occupancy within an establishment) when associated with a primary use hotel over one-hundred (100) rooms, physician's or chiropractor's office, health club, beauty salon, nail salon, or similar business. Massage Establishments as a home occupation use will remain expressly prohibited.

Special development standards for Massage Establishments as a primary use will be added to Chapter 21.52. These conditions include a 500-foot buffer between primary use Massage Establishments, window coverage restrictions, and a requirement to post an on-premises notice containing resource information related to human trafficking. These special conditions when added to the operating and licensing restrictions proposed in Title 5 and the request-specific conditions added through the AUP process will ensure minimal impact on surrounding land uses and the prevention of overconcentration of Massage Establishment uses.

The Municipal Code does not set forth required findings for approval of a Zoning Code Amendment. However, the proposed amendments are consistent with the General Plan, specifically upholding the Land Use Element's emphasis on maintaining and improving the quality of life and the Public Safety Element's emphasis on creating safer physical environments. Staff recommends that the Planning Commission recommend that the City

PUBLIC HEARING NOTICE

ENVIRONMENTAL REVIEW

Respectfully submitted,

Linda F. Tatum

T.B.M.

TM:LFT:CT:MH/CJ

Attachments: Exhibit A – Draft Zoning Code Amendment and Redlined Text
Exhibit B – Negative Declaration 05-17