



# CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 5th Floor

Long Beach, CA 90802

(562) 570-6194 FAX (562) 570-6068

June 7, 2018

## CHAIR AND PLANNING COMMISSIONERS

City of Long Beach  
California

### RECOMMENDATION:

Recommend that the City Council accept Negative Declaration ND 01-18 and approve Zoning Code Amendment (ZCA18-005) and Local Coastal Program Amendment (LCPA18-002) to: 1) amend processes so certain land uses do not require Conditional Use Permits; 2) modernize development standards for other uses; 3) organize the standards in an easier-to-use format; and 4) amend the notification requirements to better reflect modern communications. (Citywide)

APPLICANT: City of Long Beach, Development Services Department  
333 West Ocean Boulevard, 5th Floor  
Long Beach, CA 90802  
(Application No. 1805-05)

### BACKGROUND

The Conditional Use Permit (CUP) is a discretionary application required for certain land uses that, due to their nature, require individual review by the Planning Commission to determine whether the type of use proposed, or the location of that use, is compatible with, or through the imposition of reasonable conditions, can be made compatible with surrounding uses. A similar process is an Administrative Use Permit (AUP), which is reviewed by the Zoning Administrator. Some of these uses include laundromats, daycares, thrift stores, trucking uses, social service offices, special group residences, and the sale of alcohol. Based on the zoning district, certain uses may require a CUP application due to their potential to have impacts, such as noise, light, odors, littering, etc. on nearby properties. A CUP application involves a multi-departmental City review, public notification to occupants and property owners, a public hearing, and conditions of approval that govern the use in perpetuity. Unlike business licenses which are issued annually, CUPs "run with the land" and is a right that is transferred to any and all successive business or property owners. The City has hundreds of "use permits" that are well over 60 years old and still valid. The City reviews about 30 to 35 CUPs annually.

After securing a CUP, the business owner would prepare and submit plans to the Building Bureau for "plan check", where once the plans are reviewed in compliance with the California Building Code and other applicable requirements (Fire, Health, etc.), a building permit can be issued. Building inspectors inspect the construction work. Once the building inspector issues a final approval, the City can issue a business license for the business to open. The business must operate within the terms of its CUP. These terms may

include hours of operation, noise control, security measures, etc. The City maintains the right to inspect and enforce these conditions of approval, as well as any other provisions deemed a nuisance by the City, for the life of the project, regardless of ownership.

On December 20, 2016, the City Council requested that the City Manager work with the City Attorney, the Economic Development Commission, and the Planning Commission to review and make recommendations regarding the City's CUP and public notification processes. The December 20 City Council report stated that "The CUP process can be lengthy, and requires extensive staff support and public input. For a new business or an existing business wishing to expand, the CUP process can be daunting and costly, without an assured outcome. This uncertainty results from not knowing what the City may require in terms of conditions, or how the public will react to the request." The staff report also identified that "one significant part of the cost of a CUP is the requirement to mail the application to all owners and tenants within a 750' radius", with a considerable percentage of undeliverable notices and that paper mail is no longer the most desirable method of communicating with the public, with the advent of internet-based communications.

In March 2017, the City hosted a Small Business Roundtable, initiating the effort to reassess the City's CUP process. The City secured a consultant, Dyett & Bhatia (Consultant), to assist in the effort. In May 2017, the Consultant engaged in targeted outreach with over 40 stakeholders, including business owners, representatives of the Council of Business Associations, previous and current CUP applicants, and members of the Planning Commission and the Economic Development Commission. The feedback from the Stakeholders was primarily centered around ways to address the uncertainty, time, and cost of the discretionary processes. In all cases, business owners expressed their support for amendments that would make the process of opening a business more predictable and that reasonable rules should be in place to ensure that businesses operate in a manner that is harmonious with their surroundings. A Stakeholder Summary is included as Exhibit B. The Consultant also produced an assessment of the City's existing CUP process, notification, and regulations, with comparison to three peer cities: Huntington Beach, Anaheim, and West Hollywood.

The Consultant shared the findings at a Planning Commission study session in September 2017, and engaged with a core group of the Economic Development Commission. From these interactions, the Consultant also garnered input and perspective of business owners wishing to open new businesses that require CUPs. Since then, the Consultant has worked to understand the City's process and challenges, resulting in the proposed Zoning Code Amendment, and has recommended that the City amend certain provisions in the Zoning Ordinance, make better use of communication tools, and improve some internal workflows to streamline processes for businesses.

## **DISCUSSION**

The proposed Zoning Code Amendment generally consists of the following: 1) amending processes so certain land uses do not require Conditional or Administrative Use Permits; 2) modernizing development standards for alcohol uses; 3) organizing the standards in an easier-to-use format; and 4) amending the notification requirements to increase

options and better reflect modern communications. Because these proposed changes are within the Zoning Ordinance, the Planning Commission must review and act upon this matter. The Planning Commission's action will be forwarded to the City Council as a recommendation.

### Eliminating Use Permits for Certain Uses

#### *Laundromats*

The City currently requires laundromats to obtain an Administrative Use Permit (AUP). While laundromats have occasionally been the source of complaints, staff finds that conditions of approval for laundromats consistently regulate the same topics: loitering, odors, lint, and maintenance. Staff proposes to eliminate the requirement for AUPs for laundromats and require them to comply with specific development standards. These standards include odor and dust control from dryers, lint traps at the exit points to ventilation, regular maintenance, hours of operation, anti-loitering rules, and requirements for inspection on regular intervals. The Zoning Ordinance includes a chapter of special development standards, which includes performance standards and requirements in order to allow businesses to operate.

#### *Thrift Stores*

Thrift stores are also required to obtain an AUP. Thrift stores are defined as "a retail commercial land use, either for-profit or nonprofit, for the sale of used merchandise other than antiques, art, books, clothes, collectables, jewelry, photographic equipment and vehicles." Common issues with thrift stores have included illegal dumping, unsolicited donations that remain outside the store for an extended period of time, and outdoor displays of merchandise. Thrift store regulations were last adopted in 1992, and the retail economy has evolved to include the sale of secondhand goods, in particular, furniture, household décor, light fixtures, and distinct architectural or vehicle parts. One driver of this evolution is the "upcycle" market, which encourages the re-use of products into a purpose other than what they were originally designed. For these reasons, requiring stores that sell used goods to obtain an Administrative Use Permit is now contrary to encouraging a creative and innovate retail setting. Regulations will be included within the Special Development Standards to ensure that thrift stores are maintained in a manner that does not create any littering or visual impact to surroundings.

#### *Daycares*

Daycares with over 15 children currently require a CUP when located within residential districts ranging from R-1 (Single-Family Residential) to R-4 (moderate/high density). While daycares are considered a commercial use, they also provide a service that might be needed near residential neighborhoods. The City's Housing Element cites the need for child daycare facilities to be accessible to families, particularly single-parent households. Furthermore, certain R-3 and R-4 Zones currently allow limited commercial uses, such as office, retail, and restaurants. Allowing daycares as a permitted use in these

zones, rather than requiring a CUP, would eliminate one step (and cost) for daycares in these zones.

### *Live-Work Uses*

The City allows establishment of an “artist’s studio with residence” in most commercial and industrial districts subject to approval of an AUP. The studio residence must have a minimum of 750 square feet of floor area of which no more than 1/3 may be used exclusively for residential purposes. The code defines “artist’s studio” as “premises used for the creation of fine arts”, which would appear to exclude a variety of other work activities such as professional office, architecture, accounting, marketing, commercial graphics, editing, city planning, and other vocations that are being increasingly common live-work activities. Staff proposes to change the name to “Live-Work Units” and broaden the uses allowed to include those mentioned above. However, the limitation of 1/3 of the space used exclusively for residential purposes would remain, to ensure that the character of non-residential areas does not change. Furthermore, occupants of the live-work unit would be required to obtain a business license.

### Revise Notification Requirements

The Long Beach requires that public notification for planning applications, including Administrative and Conditional Use Permits, be mailed to all property owners and occupants within 750 feet of the project site. For Downtown projects, this sometimes results in nearly 2,000 notices being mailed. This exceeds the requirement imposed by all the peer cities and also the 300-foot radius that State law requires. At the same time, the City has not made adequate use of its website or other electronic means to provide information to the public about applications under review. Approximately 25 percent of the cost of AUP and CUP applications is spent on the notification effort, and commonly results 25-35%) of undeliverable notices as well as few people responding. State law also allows for a newspaper notice in lieu of projects with over 1,000 notices. Implementation of the following recommendations render the notification process less onerous and costly for both applicants, and also provide the public more accessible information about pending applications and upcoming hearings.

- Modify the notification radius to the State minimum of 300 feet, with provisions for extended noticing for certain projects, such as:
  - For projects within 300 feet of any residential zone, extend radius 200 feet for a notification radius of 500 feet.
  - For projects with reduced or shared parking requests, extend radius by 450 feet for a notification radius of 750 feet.
  - For uses that include a separate buffer, extend radius by an amount to equal or exceed the required buffer.
- Allow projects with over 1,000 notices to be noticed in the newspaper.
- Require that all notifications be posted on the Development Services Department website, plus two other forms of electronic communication

(websites, email lists, social media sites, etc.), in accordance with a Department digital public notification policy aimed towards achieving high rates of viewership than traditional mailed notices.

Another method of reducing notification costs includes offering applicants the option of providing a notification package in compliance with specific City requirements, along with self-certification. Also, the Department could link applications to an on-line map to make it easier for the public to find information about nearby development proposals, including upcoming public hearings. These tools are commonly implemented by other jurisdictions and found to be successful in conveying information to the public. These options do not require a Zoning Code Amendment, but will be evaluated as department needs during the budget review process.

#### Ease of Use

Currently, development standards for specific land uses are distributed amongst Chapters 21.45 (Special Development Standards), 21.51 (Accessory Uses), and 21.52 (Conditional Uses). To improve the usability of locating these standards, staff proposes to combine these chapters so that all uses can be found in one chapter. This will require amending cross references throughout the Zoning Ordinance.

#### Administrative (By-Right) Land Use Review Process – Staff Review

The Planning Bureau regularly reviews business licenses, with approvals indicated on the application as well as in the City's permitting system. Currently, there is no easily trackable system in place where applicants or business owners acknowledge and agree to the special development standards. As the number of uses requiring Conditional Use Permits decreases, as reflected by recently-adopted land use changes (Accessory Dwelling Units, Alcohol Beverage Manufacturing, Tattoo Parlors, Unattended Donation Bins, etc.), the City is in need of a land use review process that is performed administratively (a standardized staff review process, with possible over-the-counter review). Staff proposes codifying this process so that applicants are clear on the defined process and appropriate forms for the application.

The "red-lined" changes to the Zoning Ordinance are included as Exhibit A to this report. Please note that the new number references pertaining to Chapters 21.45, 21.51 and 21.52 will be prepared subsequent to the Planning Commission's action.

#### Sales of Alcohol for On-Site Consumption

Many of the stakeholders identified the City's requirements and procedures for approving alcohol sales for restaurants as a significant obstacle. Even though Long Beach exempts restaurants that serve alcohol with meals from the CUP process, the code makes it difficult for some applicants to qualify for this waiver because of exceptions to this provision (e.g., a fixed bar, alcohol sales over 30 percent of gross sales, etc.). Stakeholders, especially restaurant owners, cite the uncertainty, time, and cost as the hurdles introduced by the Conditional Use Permit process. They questioned the need for



the City's strict alcohol regulations with restaurants when all restaurants and bars within the Downtown Plan are permitted to serve alcohol for on-site consumption by-right, without a Conditional Use Permit. Lastly, stakeholders commented on the redundancy between the Conditions of Approval imposed on CUPs for alcohol and Alcohol Beverage Control regulations.

To address some of the concerns in a manner that clarifies regulations for businesses, eases processing time, yet allows the City to retain the authority needed to regulate sales of alcohol, staff intends to undertake a broader study of uses related to alcohol sales in the near future. This would include reviewing the "fixed bar" provision, parking requirements, and the City's relationship to California ABC regulations.

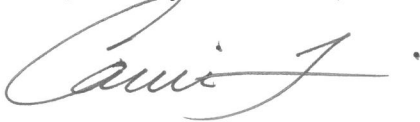
### **PUBLIC HEARING NOTICE**

Notice of this public hearing was published in the Long Beach Press-Telegram on May 24, 2018, in accordance with provisions of the Zoning Ordinance. Additionally, written notices were sent to the California Coastal Commission and all City libraries, and three public hearing notices were posted in public places throughout the City. Furthermore, staff has sent written correspondence to all stakeholders previously engaged in this effort.

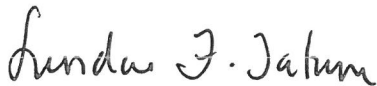
### **ENVIRONMENTAL REVIEW**

In accordance with the California Environmental Quality Act (CEQA), a Negative Declaration was prepared for the Zoning Code Amendment for CUP Regulations. The Negative Declaration was posted on the City's website and has been circulated for a 30-day review period, between May 8 and June 6, 2018. As of the date of preparation of this report, no comments have been received. The Negative Declaration is available as an attachment to this report (Exhibit C – Negative Declaration ND 01-18).

Respectfully submitted,



CARRIE TAI, AICP  
CURRENT PLANNING OFFICER



LINDA F. TATUM, FAICP  
DIRECTOR OF DEVELOPMENT SERVICES

LFT:ct

Attachments:           Exhibit A – Draft Code Amendment with Redlines  
                                 Exhibit B – Stakeholder Summary  
                                 Exhibit C – Negative Declaration ND 01-18