



CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 5th Floor

Long Beach, CA 90802

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September 20, 2018

CHAIR AND PLANNING COMMISSIONERS
City of Long Beach
California

RECOMMENDATION:

Recommend that the City Council accept Negative Declaration ND 02-18 and approve Zoning Code Amendment (ZCA18-006) and Local Coastal Program Amendment (LCPA18-003) to amend Title 21 of the Long Beach Municipal Code (Zoning Ordinance) to: 1) update regulations for religious assembly uses to be equal to or more flexible than other assembly uses; 2) classify different size assembly uses to be permitted, conditionally permitted, or not permitted in various zoning districts; 3) update development standards for religious assembly uses; and 4) provide new definitions to ensure that land uses are categorized properly. (Citywide)

APPLICANT: City of Long Beach, Development Services Department
333 West Ocean Boulevard, 5th Floor
Long Beach, CA 90802
(Application No. 1806-27)

BACKGROUND

In 2000, the City of Long Beach revised the zoning regulations pertaining to religious assembly uses in response to the Federally-enacted Religious Land Use and Institutionalized Persons Act (RLUIPA), which aims to protect religious individuals and institutions from unduly burdensome, unreasonable or discriminatory zoning, landmarking, and other land use regulations.

In March 2017, the City received an inquiry from the United States Department of Justice (USDOJ) about the zoning regulations pertaining to religious assembly uses, specifically noting that churches were not permitted in the Commercial-Neighborhood Pedestrian-Oriented (CNP) zone, but were permitted in other commercial zones. After a 4-month investigation, the USDOJ concluded that certain City land use regulations could be construed as unfair treatment of religious assembly uses when compared to non-religious assembly uses. The City's existing regulations allow for churches and places of worship to be conditionally permitted in most commercial zones (CNP excepted) with approval of an Administrative Use Permit. In PD-30 (Downtown Plan), a Minor Conditional Use Permit is required for a church use. The USDOJ commented that uses like fitness centers and theaters, which have physical characteristics that could resemble those of religious assembly uses, did not require the same review process. The City has initiated these amendments to the zoning regulations, with guidance and collaboration from the USDOJ, to provide assurance that religious assembly uses are treated in a consistent manner as

other similar land use regulations.

This work effort has also provided an opportunity to correct other inconsistencies in the Zoning Code as well as modernize some of the outdated provisions for non-religious assembly uses, such as fitness centers and theaters. As the nature of these assembly uses has changed in the past several decades. Updating these provisions will provide clarification and better respond to the needs of these business establishments while ensuring that they are appropriate to the zoning district in which they are located.

DISCUSSION

The proposed Zoning Code Amendment generally consists of the following: 1) update regulations for religious assembly to be equal to or more flexible than other assembly uses; 2) classify different size assembly uses to be permitted, conditionally permitted, or not permitted in various zoning districts; 3) update development standards for religious assembly uses; and 4) provide new definitions to ensure that land uses are categorized properly. 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.

The proposed Zoning Code Amendments primarily pertain to "assembly" uses. The term "assembly use" generally refers to spaces where people can gather, as opposed to spaces where people go to use apparatus. For example, a retail store has apparatus (shelves and racks of merchandise, displays, cashier and service counters, etc) that are used by people. Restaurants have tables, booths, chairs, counters, kitchen areas that are used by people. However, fitness studios, meeting spaces, dance halls, theaters, and worship spaces are primarily used for the gathering of people, with seats being the only apparatus, if any. Therefore, development regulations must account for a higher intensity of people and considerations such as emergency building exiting, parking regulations, and land use compatibility to ensure minimal impacts to surrounding uses.

Definitions

To classify assembly uses, staff proposes inclusion of new definitions for assembly uses. These definitions encompass religious assembly uses in non-religious uses, so that they are inherently treated equally. The term "religious assembly uses" will encompass places of worship for all religious denominations equality. Lastly, staff proposes inclusion of definitions for commonly used terms, such as "public library" and "fitness center" to ensure that they are not classified as assembly uses.

Zoning and Review Processes for Assembly Uses

Zoning districts allow a certain intensity of development, at a certain scale for the physical characteristics of the area. These characteristics are described in the purpose and intent of the zone. Current City regulations subject assembly uses of varying sizes to the same regulations in small-scale, pedestrian-oriented zoning districts and in larger scale automobile-oriented districts. The inability to distinguish between intensity of a proposed

use and the intensity intended for the zone hinders the City's basic fundamental responsibility to ensure land use compatibility. The existing descriptions of some zoning districts are somewhat convoluted and not clear, creating confusion when implementing uses. Therefore, staff proposes to clarify the definitions of the Neighborhood Commercial Pedestrian-Oriented (CNP) and Community Commercial – Pedestrian Oriented (CCP) zones to properly reflect a pedestrian-oriented environment.

To encourage uses to site in appropriately scaled locations, staff proposes a tiered system whereby low-intensity uses in small-scale neighborhoods are permitted by right, those that may be permitted with additional conditions of approval are subject to discretionary review, and high-intensity uses in low-intensity zoning districts are prohibited. These standards are applied to Religious Assembly Uses, Fitness Facilities, and Live/Movie Theaters.

Assembly Uses as Accessory Spaces

The USDOJ expressed concern that meeting spaces, such as the community room in the Michelle Obama Library, constitute assembly uses that are not subject to a Use Permit like a religious assembly uses. Staff clarified that in those cases, the use of an accessory meeting/assembly space is common in facilities like libraries, hospitals (chapels, for example), and even office spaces. To eliminate this confusion, staff proposes to allow assembly spaces to be permitted by right when they are in conjunction with another primary use and are less than 25% of the total Gross Floor Area of the primary use. This would allow for the inclusion of accessory assembly spaces in a primary use without triggering a requirement for a discretionary approval.

PD-30 (Downtown Plan)

The proposed revisions include a provision that allows religious assembly uses in the PD-30 (Downtown Plan) area by right. The reason for this is that fitness facilities and live theaters are currently permitted by-right in the Downtown Plan, which religious assembly uses require a Minor Conditional Use Permit. This would eliminate the discrepancy and create an equal process for all three uses. Note that this provision does not apply to the Downtown Neighborhood Overlay Area, as those are residential area and all three above-mentioned uses require a Minor Conditional Use Permit.

Table 1 – Proposed Revised Land Use Regulations

Uses	Neighborhood			Community			Regional		Other	Additional Regulations
	CNP	CNA	CNR	CCA	CCP	CCR	CCN	CHW	CS	
Live or movie theater (w/100 fixed seats or less)	AP Y	AP Y	AP Y	AP	AP Y	AP	AP	Y	N	For theaters w/more than 100 seats, see "Movie theater".
Live or movie theater for live theater or live theater w/100+ seats w/more than 100 fixed seats)	N AP	N AP	N AP	E Y	E AP	E Y	E Y	E Y	N	

Table 1 – Proposed Revised Land Use Regulations										
Uses	Neighborhood			Community			Regional		Other	Additional Regulations
	CNP	CNA	CNR	CCA	CCP	CCR	CCN	CHW	CS	
<u>Assembly Uses (Accessory Only < 25% of GFA)</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>N</u>	<u>Accessory assembly uses shall comply with applicable regulations for assembly uses, such as parking and building code requirements</u>
<u>Church or temple Religious assembly uses with 1) up to 2,500 sq. ft. of GFA and 2) 100 or fewer occupants</u>	<u>N</u> <u>Y</u>	<u>AP</u> <u>Y</u>	<u>AP</u> <u>Y</u>	<u>AP</u> <u>Y</u>	<u>AP</u> <u>Y</u>	<u>AP</u> <u>Y</u>	<u>AP</u> <u>Y</u>	<u>AP</u> <u>Y</u>	<u>N</u>	<u>See Section 21.45.125</u> <u>Religious Assembly Uses shall be permitted (Y) in the PD-30 Downtown Plan Area (excluding Neighborhood Overlay), subject to Section 21.45.125.</u>
<u>Church or temple Religious assembly uses with 1) between 2,501 sq. ft. and 25,000 sq. ft. GFA, or 2) more than 100 occupants</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>Y</u>	<u>AP</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>N</u>	
<u>Religious assembly uses with over 25,000 square feet of GFA</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>N</u>	
<u>Fitness Facility Fitness center/health club, dance/ karate studio, fortunetelling up to 2,500 sq. ft. GFA</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>N</u>	<u>See Section 21.52.232</u> <u>Limited to 5,000 2,500 square feet in neighborhood zones.</u>
<u>Fitness center/health club, dance/karate studio over Fitness Facility between 2,501 to 25,000 sq. ft. of GFA</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>Y</u>	<u>AP</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>N</u>	
<u>Fitness center/health club, dance/karate studio w. Fitness Facility over 25,000 sq. ft. GFA</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>N</u>	

Assembly Uses Development Standards

For certain circumstances, the proposed amendments would allow religious assembly uses by-right where a discretionary permit is currently required. By-right uses are not subject to a case-by-case review and would not be subject to site-specific conditions of approval. To ensure that these uses operate and are constructed in a manner that is harmonious and in scale with surrounding uses, staff proposes to update the existing development standards to incorporate buffers to residential areas, setbacks for uses from residential areas, while carrying over other existing development code standards. Note that these standards are primarily geared towards maintaining the quality of life for residential neighborhoods that might be near an assembly use. The updates also include an administrative process for religious assembly uses to seek relief from development standards, under the provisions of RLUIPA.

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A complete set of the proposed changes to the Zoning Code are included in a "red-lined" format as Exhibit A to this report. The USDOJ has reviewed the draft language and has indicated that this approach addresses their concerns regarding consistency with similar assembly uses.

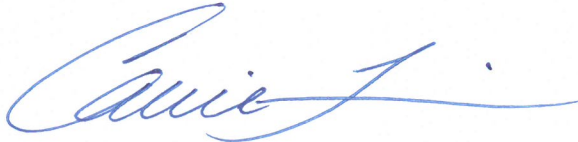
PUBLIC HEARING NOTICE

Notice of this public hearing was published in the Long Beach Press-Telegram on September 6, 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.

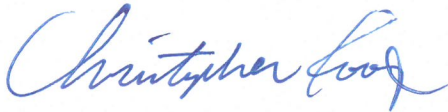
ENVIRONMENTAL REVIEW

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 July 2 and August 1, 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 B – Negative Declaration ND 01-18).

Respectfully submitted,



CARRIE TAI, AICP
CURRENT PLANNING OFFICER



CHRISTOPHER KOONTZ, AICP
PLANNING BUREAU MANAGER



LINDA F. TATUM, FAICP
DIRECTOR OF DEVELOPMENT SERVICES

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

