

**CITY OF LONG BEACH**

DEPARTMENT OF PLANNING &amp; BUILDING

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802 • (562) 570-6194 FAX (562) 570-6068

September 16, 2004

**CHAIRMAN AND PLANNING COMMISSIONERS**City of Long Beach  
California

**SUBJECT:** Proposed Amendment to Zoning Ordinance and to the Local Coastal Program to Permit Live Nude Modeling for the Purpose of Art Drawing, and "Computer Cafes" with Ten (10) or Less Computers as an Accessory Use

**LOCATION:** Citywide

**APPLICANT:** Fady Mattar  
Acting Director of Planning and Building  
333 W. Ocean Boulevard  
Long Beach, CA 90802

**RECOMMENDATION**

Recommend that City Council adopt the amendments to the Zoning Ordinance and to the Local Coastal Program.

**BACKGROUND**

In May and June 2004, the City Council directed the Planning Commission to consider amendments to the Zoning Ordinance to permit computer terminals in coffee houses ("computer cafes") and similar businesses, and to create an exemption from the adult entertainment regulations to allow nude modeling in conjunction with art drawing (see attached memorandums). Staff in conjunction with the City Attorney's Office has prepared the attached ordinance amendments to implement these changes. An amendment to the Local Coastal Program is also required because the Zoning Ordinance is an implementing ordinance of the Local Coastal Program, and action to approve the proposed amendments will also be required of the California Coastal Commission.

**"Computer cafes"**

The Zoning Ordinance currently categorizes a use with five or more computer terminals as a computer arcade requiring approval of a Conditional Use Permit and subject to numerous operational conditions. This type of use, where customers play computer games, is fundamentally different than a "computer cafe" where customers dining at a

restaurant or coffee shop may or may not take advantage of internet access offered as an accessory use. The proposed ordinance adds new language to the existing definition of computer arcades to exempt "computer cafes" from the CUP requirement by allowing ten or less computers as an accessory use to any type of restaurant, including ready-to-eat restaurants such as bakeries and coffee shops. Two operational conditions limiting adult-oriented content are also recommended. Attachment 1 includes the text of the proposed amendment.

### **Live Nude Art Drawing**

The proposal to amend the Zoning Ordinance to allow live nude modeling is in response to the request of an existing art facility in the East Village (Koo's) to offer nude modeling for legitimate art drawing purposes. The amendment will also clarify that this type of use is permitted at educational institutions as well. The amendment consists of the following changes to the "Model studio" definition in the adult entertainment regulations (new language is in bold):

"Model studio" means any business where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by persons paying such consideration or gratuity. **For the purpose of this Section, "Model Studio" shall not be deemed to include: 1) any duly licensed Art Studio or Art Gallery where the activity described in this subsection is carried on as an activity that is accessory to the principal use provided that the operator complies with the additional conditions and specifications as set forth in Chapter 21.51 entitled "Accessory Uses"; or 2) live nude art drawing or painting, or classes related thereto, that are conducted at an educational institution as that term is defined in Section 21.15.950 of this Code."**

In addition, Section 21.51.237 would be added to Chapter 21.51, Accessory Uses, to establish operational conditions for the use:

#### **21.51.237 Live Nude Art Drawing.**

**Live nude art drawing, or painting and or classes offering such activity is allowed as an accessory use to a licensed Art Studio or Art Gallery provided:**

- A. Such activity shall not take place at a location that has been licensed by the City as an Adult Entertainment Business.**
- B. No alcohol shall be consumed, sold, served or otherwise dispensed during live nude art drawing or painting classes.**

**PUBLIC HEARING NOTICE**

As per the requirements of Division III - Noticing Requirements of the Zoning Ordinance, a legal notice appeared in the Press Telegram newspaper on September 2, 2004. Notices were also sent to each of the elected representatives of the nine City Council districts and to all public libraries and to the California Coastal Commission. Notices were also posted at City Hall.

**ENVIRONMENTAL REVIEW**

The project has been deemed categorically exempt from further environmental review pursuant to the Guidelines for Implementation of the California Environmental Quality Act. Categorical Exemption No. 438-04 is attached for reference.


**RECOMMENDATION**

It is recommended that the Planning Commission recommend that the City Council adopt the amendments to the Zoning Ordinance and to the Local Coastal Program.

Respectfully submitted,

FADY MATTAR,  
ACTING DIRECTOR OF PLANNING AND BUILDING

By:



CAROLYNE C. BIHN  
SENIOR PLANNER

Approved:



GREG CARPENTER  
PLANNING BUREAU MANAGER

Attachments:

1. Proposed text for "Computer Arcades" amendment.
2. CEP 438-04
3. Memorandum Regarding Computer Terminals in Coffee Houses and Related Businesses.
4. Memorandum Regarding Drawing Classes in Private Art Centers and Studios.

## PROPOSED ZONING CODE AMENDMENT

### **"COMPUTER CAFES"**

(Deleted language is shown with strikeouts; new language is bold.)

Section 1. Section 21.15.607 is amended as follows:

21.15.607 Computer arcade.

"Computer arcade means a principal commercial entertainment land use consisting of five (5) or more computer terminals rented to the public for the primary purpose of playing computer games. "Computer arcade" is synonymous with ~~"cyber cafe"~~, "Internet arcade", "cyber arcade", and other Internet or computer-based entertainment businesses. Four (4) or less computers used in this way at one (1) site shall be considered an accessory use, subject to the provisions of Section 21.51.205. Computers used for business purposes in conjunction with printing services shall be considered a business office support use.

**"Computer cafe", "cyber cafe" or "internet cafe" means an accessory use consisting of ten (10) or less computers rented to the public for the primary purpose of internet access, subject to the provisions of Section 21.51.226. Facilities that have eleven (11) or more computers shall be considered computer arcades. The principal use shall be a restaurant of any type as defined by Title 21.**

Section 2. Section 21.51.226 is added to the Long Beach Municipal Code as follows:

21.51.226 Computer cafe.

The following conditions shall apply to computer cafes:

A. Computer games of an adult nature depicting "specified anatomical areas" or "specified sexual activities," as these terms are defined in Chapter 21.15 (Definitions), shall not be installed on computer terminals or played by customers unless the locational restrictions of Section 21.45.110 (Special Development Standards - Adult Entertainment) are complied with; and

B. If access to adult-oriented websites is allowed, a separate area, up to a maximum of twenty percent (20%) of computer terminals available for public rental, shall be set aside for adult viewing with the computers clearly marked as such and screened from view by minors. All other machines shall be marked prohibiting adult viewing.



\$25.00 FILING FEE

Categorical Exemption CEP 438-04

## NOTICE OF EXEMPTION

To: Office of Planning & Research  
1400 Tenth street, Room 121  
Sacramento, CA 95814

From: Department of Planning & Building  
333 W. Ocean Blvd., 5th Floor  
Long Beach, CA 90802

☒ L. A. County Clerk  
Environmental Filings  
12400 E. Imperial Hwy. 2nd Floor, Rm. 2001  
Norwalk, CA 90650

Project Title: ZONING TEXT AMENDMENT

Project Location - Specific: CITYWIDE

Project - City: LONG BEACH

Project Location - County: Los Angeles

Activity Description: Amend the zoning code to allow live  
nude art drawing & change the definition of computer use to  
allow 10 or more computer uses as an accessory use.

Name of Public Agency Approving Project: CITY OF LONG BEACH

Name of Person or Agency Carrying Out Project: FADY MATTAR, ACTING DIRECTOR

(Printed Name)

333 W. Ocean Blvd. Long Beach 90802

(Mailing Address)

(562) 570 6357

(Telephone)

(Signature)

### LONG BEACH CITY PLANNING COMMISSION

The above project has been found to be exempt from CEQA in accordance with the State Guidelines Section

15301

Statement of Support for this finding: negligible change in use

Lead Agency

Contact Person: ANGELA REYNOLDS

Area Code/Telephone: (562) 570 6357

Signature: [Signature]

Date: 9/7/04


Title: ENVIRONMENTAL OFFICER

Signed by Lead Agency

Signed by Applicant

Charge Point: \_\_\_\_\_



**Date:** May 18, 2004  
**To:** Honorable Mayor and City Councilmembers  
**From:** Dan Baker, 2<sup>nd</sup> District Councilmember   
**Subject:** Request the City Attorney to develop an ordinance to allow eight public computer terminals in coffee houses and similar businesses

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### **Background**

As the Internet becomes an important part of every day communication, computer terminals that are available for public use – in coffee houses, copy centers and similar business – provide an important service to residents of and visitors to Long Beach.

Currently, local businesses, particularly coffee houses, are prohibited from providing more than four public computer terminals without obtaining an arcade permit. Since these terminals provide a valuable public service, I would like to propose that the number of terminals allowed be increased from four to eight in those locations.

### **Recommended Action**

Request the City Attorney to develop an ordinance to allow eight public computer terminals in coffee houses and similar businesses.



**City of Long Beach**  
*Working Together to Serve*

**Memorandum**

**Date:** June 30, 2004  
**To:** Nick Sramek, Planning Commission  
**From:** Larry G. Herrera  
**Subject:** Meeting June 22, 2004  
Agenda Item 27

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The City Council at its meeting of Tuesday, June 22, 2004 made the following motion:

Referred to City Planning Commission in cooperation with City Attorney to revise adult entertainment ordinance to create an exemption for life drawing classes in private art centers and studios in Long Beach.  
(Doc. 59)

Maker of the Motion: Councilmember Dan Baker and seconded by Councilmember Bonnie Lowenthal.

Attachment 2

**1A. Case No. 0406-27, Conditional Use Permit, CE 04-129**

Applicant: Long Beach Unified School District  
Subject Site: 2800 Snowden (Council District 5)  
Description: Request to install and operate an electronic message center (school announcements and activities only) at R. A. Millikan High School.

Approved the Conditional Use Permit, subject to conditions.

**1B. Case No. 0406-25, Tentative Map, CE 04-128**

Applicant: Kimberly A. Holtz for DMC Engineering  
Subject Site: 8105-8195 Wardlow Road (Council District 5)  
Description: Approval of Tentative Map No. 60270 for the purpose of creating two single commercial lots in the CCA (Community Commercial, Automobile Oriented) Zone District.

Approved the Tentative Map, subject to conditions.

**1C. Negative Declaration 05-04**

Applicant: Anthony K. Norman  
Subject Site: 1219 Pacific Avenue  
Description: New construction of two modular buildings on existing church property for daycare and fellowship hall.

Continued to October 21, 2004 meeting.

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**R E G U L A R   A G E N D A**

**2. Zoning Ordinance Amendments**

Applicant: Fady Mattar, Acting Director of Planning and Building  
Subject Site: Citywide  
Description: Proposed amendment to Zoning Ordinance and to the Local Coastal Program, permitting live nude modeling for the purpose of art drawing, and 'computer cafes' with ten or less computers as an accessory use.

Carolynne Bihn presented the staff report recommending that the Commission recommend that the City Council adopt the amendments as presented.

In response to a query from Commissioner Sramek, who noted that area Councilman Baker had recommended accessory uses in



situations with four to eight computers, Ms. Bihn replied that ten was a more realistic number for the size of the typical café. Assistant City Attorney Mais added that based on his research, ten was the typical cutoff for many other cities.

In response to a query from Chairman Greenberg regarding licensing of art studios and galleries, Mr. Mais said that they had to possess a City business license, and that he would add the word 'duly' to the recommendation.

Shelly Rugg Thorp, 2215 E. Bermuda Street, volunteer co-director at Koos Art Center, East Village, thanked the staff and Commission for working with the galleries to legalize legitimate modeling.

Ed Fosmire, 110 W. Ocean Blvd., #20, representing the Public Corporation for the Arts, expressed their support for the amendment.

Commissioner Sramek moved to recommend that the City Council adopt the amendments to the Zoning Ordinance and to the Local Coastal Program with the additional licensing language.  
Commissioner Jenkins seconded the motion.

Chairman Greenberg suggested that a five-year review be added to the conditions to see if any changes needed to be made, given the historical problems with nude photography. The makers of the motion okayed the addition of the review period requirement.

The question was called, and the motion passed 4-0.  
Commissioners Winn, Stuhlbarg and Gentile were absent.

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### **3. Case No. 0408-07, Modification**

Applicant: Bill Ridgeway Design  
Subject Site: 2725 South Street (Council Dist. 9)  
Description: Request to modify an existing CUP (9002-40) allowing a recycling center in the Light Industrial Zone District.

Jayne Mekis presented the staff report recommending approval of the modification, since the currently existing center was generally well-maintained and was providing beneficial community services, and because the project operations should not be detrimental to the public welfare, health and safety, as per the conditions of approval.

Robert E. Shannon  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
Telephone (562) 570-2200

RESOLUTION NO. C-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH ADOPTING, AFTER PUBLIC HEARING, AMENDMENTS TO THE LOCAL COASTAL PROGRAM TO PERMIT LIVE NUDE MODELING FOR THE PURPOSE OF ART DRAWING; AND "COMPUTER CAFES" WITH TEN OR LESS COMPUTERS AS AN ACCESSORY USE; AND AUTHORIZING THE DIRECTOR OF PLANNING AND BUILDING TO SUBMIT CERTIFIED COPIES OF THIS RESOLUTION AND ANY AND ALL IMPLEMENTING ORDINANCES TO THE CALIFORNIA COASTAL COMMISSION FOR APPROVAL AND CERTIFICATION

The City Council of the City of Long Beach resolves as follows:

Section 1. The City Council finds, determines and declares:

A. Pursuant to the California Coastal Act of 1976, the City Council approved the Local Coastal Program for the City of Long Beach on February 12, 1980; and

B. The California Coastal Commission certified the Long Beach Local Coastal Program on July 22, 1980; and

C. The California Coastal Act, at Public Resources Code Section 30514, provides a procedure for amending local coastal programs; and

D. Following a duly noticed public hearing on September 16, 2004, the Planning Commission of the City of Long Beach reviewed certain proposed Amendments to the Local Coastal Program by amending the Long Beach Municipal Code to Permit Live Nude Modeling for the Purpose of Art Drawing; and "Computer

1 Cafes" with ten (10) or less computers as an accessory use as shown on Exhibit "A"  
2 attached hereto and incorporated herein by this reference, and approved and  
3 recommended that the City Council adopt such amendments to the City's Local Coastal  
4 Program, as described in this Resolution; and

5 E. That on \_\_\_\_\_, after due consideration of appropriate  
6 environmental documents, and after a public hearing duly noticed and conducted, the  
7 City Council considered and approved a revision to the Local Coastal Program; and

8 F. That these Amendments to the Local Coastal Program are intended to  
9 be carried out in a manner fully in conformity with the California Coastal Act; and

10 G. That these Amendments to the Local Coastal Program shall be  
11 effective upon certification and approval by the California Coastal Commission.

12 Sec. 2. The City Council hereby amends the Local Coastal Program to  
13 permit live nude modeling for the purpose of art drawing; and "computer cafes" with ten  
14 (10) or less computers as an accessory use as is reflected in Exhibit "A", which exhibit  
15 is attached hereto and incorporated herein by this reference.

16 Sec. 3. The Director of Planning and Building is hereby authorized to  
17 submit a certified copy of this resolution together with appropriate implementing  
18 ordinances and other supporting materials, to the California Coastal Commission for  
19 certification and approval by the Coastal Commission as an amendment to the City's  
20 Local Coastal Program, and the implementing ordinances thereof, in accordance with  
21 the provisions of Public Resources Code Section 30515 and California Coastal  
22 Commission Regulation 13557.

23 Sec. 4. This resolution shall take effect immediately upon its adoption by  
24 the City Council, and the City Clerk shall certify to the vote adopting this resolution.

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28

Robert E. Shannon  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
Telephone (562) 570-2200

1 I hereby certify that the foregoing resolution was adopted by the City  
2 Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2004,  
3 by the following vote:

4 Ayes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7 Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

9 Absent: Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

13 \_\_\_\_\_  
14 City Clerk

ORDINANCE NO. C-

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH AMENDING THE LONG BEACH  
MUNICIPAL CODE BY AMENDING SECTIONS 21.15.110.G  
AND 21.15.607; AND BY ADDING SECTIONS 21.51.226 AND  
21.51.237, RELATING TO LIVE NUDE MODELING FOR THE  
PURPOSE OF ART DRAWING; AND COMPUTER CAFES AS  
AN ACCESSORY USE

The City Council of the City of Long Beach ordains as follows:

Section 1. Section 21.15.110.G of the Long Beach Municipal Code is  
amended to read as follows:

G. "Model studio" means any premises on which there is  
conducted any business where, for any fee, compensation, consideration  
or gratuity, figure models who display specified anatomical areas are  
provided to be observed, sketched, drawn, painted, sculptured,  
photographed or otherwise depicted by persons paying such  
consideration or gratuity. For the purposes of this Section, "Model Studio"  
shall not be deemed to include:

1. Any art studio or art gallery maintaining a business  
license in the City where the activity described in this Subsection is carried  
on as an activity that is accessory to the principal use, provided that the  
operator complies with the additional conditions and specifications as set  
forth in Chapter 21.51 entitled "Accessory Uses;" or

2. Live nude art drawing or painting, or classes related  
thereto, that are conducted at an Educational Institution such as a private

1 or public school, vocational school, college, or university qualified by the  
2 State Board of Education to give general academic instruction.

3  
4 Sec. 2. Section 21.15.607 of the Long Beach Municipal Code is amended  
5 as follows:

6 21.15.607

7 "Computer arcade" means a principal commercial entertainment  
8 land use consisting of five (5) or more computer terminals rented to the  
9 public for the primary purpose of playing computer games. "Computer  
10 arcade" is synonymous with "internet cafe," "internet arcade," "cyber  
11 arcade," and other internet or computer-based entertainment businesses.  
12 Four (4) or less computers used in this way at one (1) site shall be  
13 considered an accessory use, subject to the provisions of Section  
14 21.51.205. Computers used for business purposes in conjunction with  
15 printing services shall be considered a business office support use.

16 "Computer cafe," "cyber cafe," or "Internet cafe" means an  
17 accessory use consisting of ten (10) or less computers rented to the  
18 public for the primary purpose of internet access, subject to the provisions  
19 of Section 21.51.226. Facilities that have eleven (11) or more computers  
20 shall be considered computer arcades. The principal use of a computer  
21 cafe, cyber cafe, or Internet cafe shall be a restaurant of any type as  
22 defined by Title 21.

23  
24 Sec. 3. Long Beach Municipal Code Section 21.51.226 is added to the  
25 Long Beach Municipal Code to read as follows:

26 21.51.226 Computer cafe.

27 The following conditions shall apply to computer, cyber, or Internet  
28 cafes:

1 A. Computer games of an adult nature depicting "specified  
2 anatomical areas" or "specified sexual activities," as these terms are  
3 defined in Chapter 21.15 (Definitions), shall not be installed on computer  
4 terminals or played by customers unless the locational restrictions of  
5 Section 21.45.110 (Special Development Standards - Adult  
6 Entertainment) are complied with; and

7 B. If access to adult-oriented websites is allowed, a separate area,  
8 up to a maximum of twenty percent (20%) of computer terminals available  
9 for public rental, shall be set aside for adult viewing with the computers  
10 clearly marked as such and screened from view by minors. All other  
11 machines shall be marked prohibiting adult viewing.

12  
13 Sec. 4. Long Beach Municipal Code Section 21.51.237 is added to the  
14 Long Beach Municipal Code to read as follows:

15 21.51.237 Live Nude Art Drawing.

16 A. Live nude art drawing, or painting and or classes offering such  
17 activity is allowed as an accessory use to a duly licensed Art Studio or Art  
18 Gallery provided:

19 1. Such Activity shall not take place at a location that has  
20 been licenced by the City as an Adult Entertainment Business.

21 2. No alcohol shall be consumed, sold, served or otherwise  
22 dispensed during live nude art drawing or painting classes.

23 B. The subject matter of this ordinance shall be reviewed by the  
24 Planning Commission five (5) years after the date of enactment.

25  
26 Sec. 5. The City Clerk shall certify to the passage of this ordinance by the  
27 City Council and cause it to be posted in three conspicuous places in the City of Long  
28 Beach, and it shall take effect on the thirty-first day after it is approved by the Mayor.

Robert E. Shannon  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
Telephone (562) 570-2200

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2004, by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor