



Legislation Text

File #: 07-0250, **Version:** 2

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Chapter 21.32 by amending Table 32-1; and amending Section 21.52.213 by adding Subsection E, all relating to zoning of churches read and adopted as read. (Citywide)

In light of recent issues relating to storefront churches, City staff prepared a background report on issues relating to storefront churches. On October 13, 2006, the findings and recommendations were presented to the City Council (Attachment A). The next step after City Council review was to present the recommendations to the Planning Commission. On December 21, 2006, staff presented to the Planning Commission policy options for regulating storefront churches. After considering this information, the Planning Commission directed planning staff to draft text changes to the Zoning Ordinance regarding permitting requirements for new churches and related parking requirements. On February 1, 2007, after a duly noticed public hearing, the Planning Commission recommended that the City Council adopt an ordinance revising the permitting requirements for new churches, and to allow greater flexibility in the method meeting those parking requirements (Attachment B).

Under the Federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), churches and other religious assemblies and organizations, such as home bible studies, now have the protection of specific federal statutes against burdensome, restrictive or discriminatory land use regulations. Congress adopted the Act in response to "massive evidence" that churches, especially new, small or unfamiliar churches, are "frequently" discriminated against by zoning codes and in the discretionary process of land use regulation.

In practice, this generally means that a city cannot, as a general rule, deny a church the use of any land regardless of its zoning codes, as doing so would place a substantial burden on the church by limiting its "religious expression." The City can deny if it can show that denial was both necessary due to some compelling government interest AND the least restrictive means of achieving that interest, then a city would be at risk of violating Federal law.

Based on these Federal requirements found in RLUIPA, the City is compelled to provide a reasonable approval process for churches wishing to locate in Long Beach or legalize their existing sanctuary. The proposed amendment include the following revisions to the Zoning Code:

1. Amend the Commercial Use Table (Table 32-1) to allow churches in all commercial zones except Commercial Storage and Neighborhood Pedestrian (CNP District) with an Administrative Use Permit (AUP) instead of the current requirement for a Conditional Use Permit. This would allow the Zoning Officer to act as the hearing officer, with that decision being appealable to the Planning Commission. In addition, the time and cost involved in permit processing would be reduced, while still providing public input and the authority for reasonable conditions of approval to be added to insure building and fire code compliance and community compatibility.

2. Amend the Commercial Use Table (Table 32-1) to prohibit new churches in the CNP District. Currently, churches are permitted in this zone subject to approval of a CUP. This action is intended to protect pedestrian-oriented commercial corridors from non-contributing land uses. Due to their function and operation, storefront churches function poorly in these types of pedestrian districts. In pedestrian districts, the city is trying to foster active ground floor retail that encourages walking. In many cases, churches are unoccupied during normal business hours except for, typically, Sunday. Public assembly uses, such as private clubs and social halls, are currently prohibited in the CNP Districts and the exclusion of religious assembly use is a consistent and reasonable restriction.
3. Amend the Conditional/Administrative Use Section (21.52.213) to include language allowing the Zoning Administrator to allow greater flexibility when reviewing distance and deed restriction requirements for off-site parking and allowing provisions for tandem parking and compact spaces. This change will not reduce the required number of parking spaces but it will allow the flexibility in how those spaces are provided.

Assistant City Attorney Michael J. Mais reviewed this letter and prepared the attached resolution and ordinance on February 24, 2007.

COASTAL COMMISSION CERTIFICATION

On December 5, 2006, the City Council approved an ordinance amending Table 31-1 of the Zoning Code to allow existing churches in the R-1-N zone to expand with a Conditional Use Permit (Attachment C). Based on the limitation of the number of amendments that can be submitted to the California Coastal Commission, the resolution requesting California Coastal Commission certification includes the previously approved ordinance relating to expansion of churches in residential zones and the permitting requirements for the churches in commercial zoning districts discussed in this report.

The Municipal Code requires the Planning Commission recommendation to be transmitted by the Department of Planning and Building to the City Clerk for presentation to the City Council within 60 days following Planning Commission action. However, since the City is the applicant, this timeframe is not binding.

None.

Approve recommendation.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING CHAPTER 21.32 BY AMENDING TABLE 32-1; AND AMENDING SECTION 21.52.213 BY ADDING SUBSECTION E, ALL RELATING TO ZONING OF CHURCHES

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BY:
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