

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Long Beach, CA 90802-4302
(562) 590-5071

RECORD PACKET COPY

April 21, 2005

**TO:** Commissioners and Interested Persons**W18b**

FROM: Deborah Lee, Deputy Director
Pam Emerson, Los Angeles County Area Supervisor
Charles Posner, Coastal Program Analyst

RE: Minor Amendment Request No. 1-05 (LOB-MIN-1-05) to the City of Long Beach LCP, for Commission Action at its May 11, 2005 meeting at Stanford.

Local Coastal Program Amendment No. 1-05 (Minor)

The City of Long Beach is requesting that the Commission certify an amendment to the implementing ordinances (LIP) portion of the Long Beach certified Local Coastal Program (LCP). The requested LCP amendment would clarify the City's existing zoning ordinances that regulate art studios and restaurants (See Attachment A). The LCP amendment request would affect only the LIP portion of the certified LCP and does not propose any rezoning or land use changes. The City submitted LCP Amendment Request No. 1-05 with City Council Resolution No. C-28496, and the proposed changes are contained in City Council Ordinance No. C-7961 (Attachment B). The Long Beach City Council held a public hearing for the LCP amendment on December 14, 2004.

In regards to art studios, Section 21.51.237 is being added to the zoning ordinance in order to allow live nude art drawing and painting as an accessory use to a licensed art studio or educational institution (instead of being regulated under the adult entertainment business ordinance). The definition section of the City's zoning ordinance (Chapter 21.15) is also being amended in order to specifically define "Model Studio" as a use other than an art studio or educational institution (Attachment A, p.2). As a result, live nude art drawing and painting would be allowed as an accessory use to a licensed Art Studio or educational institution, but only if no alcohol is consumed. Nude modeling at a model studio would continue to be subject to the adult entertainment business ordinance, which is not being amended.

In regards to the proposed change to restaurant uses, the zoning ordinance is being amended in order to allow restaurants to have as an accessory use up to ten computer terminals for public rental. Any facility that has five or more computer terminals for public rental is currently defined by Section 21.15.607 as a "Computer Arcade" and is regulated as such. The proposed change to Section 21.15.607 would allow restaurants to have up to ten computer terminals without being regulated by the computer arcade regulations (Attachment B, p.2). Restaurants that have eleven or more computer terminals for public rental would be regulated by the computer arcade regulations, as would any non-restaurant use with five or more public computer terminals. Section 21.51.226 is being added to the zoning ordinance to control minor access to public computer terminals in restaurants that provide access to games or websites of an adult nature (Attachment B, p.3).

The Executive Director has determined that City of Long Beach LCP Amendment No. 1-05 is a minor LCP amendment because the proposed changes are consistent with the certified Land Use Plan (LUP), would make the zoning regulations more specific, and would not change the kind, location, intensity or density of any uses. The proposed change would allow licensed art studios and educational institutions to teach and create art as they currently are permitted, albeit with nude models rather than ones wearing clothes. The proposed change would also allow restaurant uses to rent a limited number of computer terminals to their customers without obtaining a Conditional Use Permit. Therefore, the proposed changes do not constitute a change of intensity of use, and they would not adversely affect any coastal resources. The proposed changes do not conflict with any policy of the certified LUP.

PROCEDURES

Pursuant to Section 30514(c) of the Coastal Act and Section 13554(a) of the California Code of Regulations, the Executive Director has determined that the proposed LCP amendment is "minor" in nature. Section 13554(a) of the California Code of Regulations defines a minor LCP amendment as changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and are consistent with the certified LUP.

The proposed LCP amendment will become effective after report to the Commission of any written objections received within ten working days of the mailing of notice unless one-third of the appointed members of the Commission request that the LCP amendment be processed and heard as a "major" LCP amendment pursuant to Section 13555 of the California Code of Regulations.

**CITY OF LONG BEACH**

DEPARTMENT OF PLANNING & BUILDING

Exhibit "A"

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

September 16, 2004

CHAIRMAN AND PLANNING COMMISSIONERSCity 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.**

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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.

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EXHIBIT # A
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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.

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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. (new language is underlined.)
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.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of December 21, 2004, by the following vote:

Ayes: Councilmembers: Baker, Colonna, O'Donnell, Kell,
Richardson, Reyes Uranga, Gabelich,
Lerch.

Noes: Councilmembers: None.

Absent: Councilmembers: Lowenthal.

Lang G. Hannon
City Clerk

Approved: 12-23-04

Bruce Smith
Mayor

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

MJM:kjm 10/29/04; 11/16/04; 12/1/04 #04-04360
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