

CALIFORNIA COASTAL COMMISSION

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July 19, 2018

TO: Commissioners and Interested Persons

FROM: Steve Hudson, Deputy Director, South Coast District
Charles Posner, Supervisor of Planning
Dani Ziff, Coastal Program Analyst

RE: Amendment Request No. 2-18 (LCP-5-LOB-18-0038-2) to the City of Long Beach Local Coastal Program, for Commission Action at its August 9, 2018 meeting in Redondo Beach.

Local Coastal Program Amendment No. 2-18

The Coastal Commission certified the City of Long Beach Local Coastal Program (LCP) on July 22, 1980. Local Coastal Program Amendment Request No. 2-18 affects only the City's zoning code, which is the implementing ordinances portion of the certified LCP. The Long Beach Planning Commission held a public hearing for the zoning code changes on February 1, 2018. The Long Beach City Council held a public hearing for the zoning code changes and the LCP amendment on May 1, 2018 and passed City Council Resolution No. RES-18-0065 authorizing City staff to submit the LCP amendment to the Coastal Commission. After laying over the zoning code ordinance to the next regular meeting of the City Council for final reading, as is City procedure, the City Council adopted Ordinance No. ORD-18-0013 on May 8, 2018. The City submitted LCP Amendment Request No. 2-18 on May 18, 2018 and Commission staff deemed the LCP amendment request complete June 4, 2018.

STAFF RECOMMENDATION

The standard of review for the proposed amendment to the LCP Implementing Ordinances (IP), pursuant to Sections 30513 and 30514 of the Coastal Act, is that the proposed IP amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan (LUP). The proposed changes to the tattoo parlor zoning regulations are in response to the federal court's ruling in *Real v. City of Long Beach*, 852 F.3d 929 (9th Cir. 2017), and will ensure the City's LCP complies with the First Amendment of the U.S. Constitution. The Ninth Circuit held that the plaintiff raised a cognizable claim that Title 21 of the Long Beach Municipal Code violates the First Amendment by unreasonably restricting tattoo artists from establishing tattoo parlors. In response to the court's ruling, the City's proposed changes to the LCP's implementing ordinances include expanding the allowable area for establishment of tattoo parlors to nearly all commercial districts, lowering the required distance between tattoo parlors to 700 feet, changing performance standards, and processing applications as ministerial. The amendment request has been determined to be major because the ordinance could change the location, intensity, and density of the subject use. The changes proposed by this LCP amendment will not adversely affect coastal resources and are consistent with the certified LUP. Staff is recommending that the Commission, after a public hearing, certify the LCP amendment request as submitted. The motion to accomplish this recommendation is on page two of this report.

I. MOTION AND RESOLUTION

Motion:

I move that the Commission reject Amendment No. 2-18 to the City of Long Beach Implementing Ordinances as submitted by the City.

Staff recommends a **NO** vote. Failure of this motion will result in certification of the amendment to the Implementation Program as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution to Certify the IP Amendment as Submitted

The Commission hereby certifies Amendment Request No. 2-18 to the LCP Implementing Ordinances for the City of Long Beach as submitted and adopts the findings set forth below on grounds that the Implementing Ordinances conform with, and are adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementing Ordinances complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. FINDINGS

A. Description of the LCP Amendment Request

Long Beach LCP Amendment Request No. 2-18 would amend the City's implementing ordinances to update the regulations regarding tattoo parlors. The proposed changes to the tattoo parlor zoning regulations are in response to the federal court's ruling in *Real v. City of Long Beach (Real)*, 852 F.3d 929 (9th Cir. 2017), and will ensure the City's LCP complies with the First Amendment of the U.S. Constitution. In *Real*, the Ninth Circuit held that the plaintiff raised a cognizable claim that Title 21 of the Long Beach Municipal Code violates the First Amendment by unreasonable restricting tattoo artists from establishing tattoo parlors. In response to the court's ruling, the City's resolution and proposed changes to the LCP's implementing ordinances would relax the restrictions on tattoo parlors by expanding the allowable area for their establishment from some commercial districts to all zoning districts allowing commercial land uses (except the Commercial Storage District), lowering the required distance between tattoo parlors from 1000 to 700 feet, and processing applications as ministerial. The proposed amendment also adds performance standards including hours of operation, lighting standards, security standards, and property design and maintenance standards. Long Beach City Council Resolution No. RES-18-0065 and Ordinance No. ORD-18-0013 adopting the proposed zone changes is included in [Exhibit 1](#). The proposed changes are shown in underline and strikethrough in the City's exhibits attached to Ordinance No. ORD-18-0013 ([Exhibit 1](#)).

B. Consistency with the Certified Land Use Plan

The standard of review for the proposed amendment to the LCP Implementing Ordinances (IP), pursuant to Sections 30513 and 30514 of the Coastal Act, is that the proposed IP amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan (LUP). The certified LUP contains

policies that aim to maximize shoreline access, protect recreation and visitor serving facilities, preserve extant neighborhoods, and balance human use of coastal resources with ecological concerns. While there are no LUP policies that explicitly mention tattoo parlors, there are broad policies that allow commercial development in portions of the coastal zone. The proposed IP amendment is not in conflict with these policies or any other policy in the certified LUP because it proposes to change only the type of commercial activities allowed in commercially zoned areas and, as proposed, will not result in any adverse impacts to coastal resources. Thus, the proposed changes conform with, and are adequate to carry out, the provisions of the certified LUP.

C. California Environmental Quality Act

The City of Long Beach is the lead agency for the purposes of California Environmental Quality Act review of the proposed LCP amendment. In December 2017, the City issued a Negative Declaration (ND-04-17) for the proposed change to the zoning regulations. Pursuant to the California Environmental Quality Act (CEQA) and the California Code of Regulations [Title 14, Sections 13540(f), 13542(a), 13555(b)] the Commission's certification of this LCP amendment must be based, in part, on a finding that it is consistent with CEQA Section 21080.5(d)(2)(A). That section of the Public Resources Code requires that the Commission's regulatory program require that a proposal not be approved or adopted if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that, for the reasons discussed in this report, the proposed LCP amendment complies with the California Environmental Quality Act because there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts which the LCP amendment may have on the environment. The Commission finds that the proposed LCP amendment is consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.