

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
301 East Ocean Blvd., Suite 300
Long Beach, CA 90802-4302
(562) 590-5071



Th21a

October 3, 2019

TO: Commissioners and Interested Persons

FROM: Steve Hudson, Deputy Director, South Coast District
Shannon Vaughn, District Supervisor
Eric Stevens, Coastal Program Analyst

RE: Major LCP Amendment Request No. 2-19 (LCP-5-RDB-19-0045-2) to establish local regulations for Body Art, Massage, and Cannabis for the City of Redondo Beach LCP, for Commission Action at its October 17, 2019 meeting in Chula Vista.

Local Coastal Program Amendment Request No. 2-19

Amendment Request No. 2-19 (LCP-5-RDB-19-0045-2) includes three separate amendments that would amend the City's Implementation Plan (IP) (implementing ordinances in Title 10, Chapter 5 of the municipal code) to establish local regulations for Body Art, Massage, and Cannabis within the City's coastal zone. The City also approved parallel ordinances to establish local regulations for Body Art, Massage, and Cannabis outside the Coastal Zone. The proposed amendment will affect the certified LCP Implementation Plan only. All three amendments are combined in LCP Amendment 2-19, and are analyzed separately below. The proposed changes to the implementing ordinances (IP) are in Ordinance Nos. 3144-15 (Body Art) (**Exhibit 1**) 3178-17 (Cannabis) (**Exhibit 2**), and 3147-15 (Massage) (**Exhibit 3**). The LCP amendment request was submitted for Commission certification by City Council Resolution Nos. CC-1511-083 (Body Art and Massage) (**Exhibit 4**) and CC-1710-186 (Cannabis) (**Exhibit 5**).

Body Art:

The City's proposed Body Art amendment modifies existing IP/Zoning Code section 10-5.402 to add in new definitions related to body art. Body art generally refers to tattooing and piercing. In addition, the ordinance adds "Body art studio" to the use classification tables in sections 10.5-620, 10.5-630, 10.5-640, and 10.5-710. Each of the modified use tables applies to different commercial zones in the City and a Condition Use Permit will be required for a Body art studio in the commercial zones. The ordinance also adds new IP/Zoning Code section 10-5.1630, which outlines criteria pertaining to body art studios. Specifically, body art studios are not allowed to operate between 10 PM or 10 AM on any given day; employees must have necessary training, certification, and permits; live animals except for service animals are not allowed inside of the studios; temporary or mobile studios or events are prohibited within the City; no alcohol can be sold, consumed or purchased in the studios; and studios must be located a minimum of 1,000 ft. from one another.

Massage:

The City’s proposed Massage Business amendment modifies existing IP/Zoning Code section 10-5.402 to add in new definitions related to Massage Business. In addition, the ordinance adds “Massage Business” to the use classification tables in sections 10.5-620, 10.5-630, 10.5-640, 10.5-710, 10-5.810, and 10-5.910. Each of the modified use tables applies to different commercial zones in the City and a Condition Use Permit will be required for Massage Business in the commercial zones. The ordinance also adds new IP/Zoning Code section 10-5.1628, which outlines criteria pertaining to Massage Business. Specifically, Massage Businesses cannot operate in a location where illegal activity has occurred within the past three years, the minimum separation between Massage Businesses must be at least 1,000 ft., and alcohol and condoms cannot be sold, consumed, or purchased in any Massage Business. The City did not prepare a strike out/underline version of the ordinance to reflect changes to the existing IP/Zoning Code.

Cannabis:

The City’s proposed Cannabis amendment modifies existing IP/Zoning Code section 10-5.1626. The existing code section dealt exclusively with regulations related to medical cannabis dispensaries. As amended, the code section would address both medical and recreational cannabis activities. Specifically, the proposed ordinance clarifies that indoor cultivation of up to six cannabis plants for personal use in a private residence, or inside a fully enclosed and secured structure located at the residential site is consistent with State law. In addition, the City proposes to allow for delivery of medical cannabis. However, all other commercial cannabis activities including cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, transportation, distribution, recreational cannabis delivery, or sale of cannabis and cannabis products, would be prohibited City-wide.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, APPROVE Amendment Request No. 2-19 as submitted.

The standard of review for the LCP Implementing Ordinances (IP), pursuant to Sections 30513 and 30514 of the Coastal Act, is whether the proposed IP amendment conforms with and is adequate to carry out the provisions of the certified LUP. The proposed changes to the IP are consistent with the LUP polices and no adverse impacts to coastal access or coastal resources are anticipated as a result of the changes to the IP. Staff, therefore, recommends that the Commission find that the City’s request to amend the City’s Zoning Ordinance conforms with and is adequate to carry out the certified land use plan and approve the LCP amendment as submitted.

The motions and resolutions are found on **Page 6**.

BACKGROUND

The Commission certified the Redondo Beach Land Use Plan (LUP) in 1981. In 2002, the Commission approved the segmentation of the City into two areas, the Harbor-Pier area (Area 2) and the remainder of the City (Area 1). The Commission’s 2002 approval certified the City’s Local Coastal Program

(LCP) for Area 1. Area 2 effectively was deferred certification. In 2010, the Commission eliminated the geographic segmentation and certified the LCP for the remainder of the City.

LOCAL REVIEW AND DEADLINE FOR COMMISSION ACTION

The City Planning Commission held public hearings regarding the LCP amendments on August 20, 2015 (Body Art and Massage) and April 20, 2017, May 18, 2017, July 20, 2017, and August 17, 2018 (Cannabis). The City Council held public hearing on November 3, 2015 and November 17, 2015 (Body Art and Massage) and September 9, 2017, October 17, 2017, and November 7, 2017 (Cannabis). The City submitted the LCP Amendment request on May 15, 2019. On May 30, 2019, staff determined that the submittal was incomplete and sent the City a letter requesting information that would be requiring before the application could be deemed complete. On July 15, 2019, the City provided staff with the requested information and staff determined that the LCP amendment request was complete. The Commission granted a one-year time extension on September 12, 2019. As such, the last date for Commission action on this item is September 12, 2020.

FOR ADDITIONAL INFORMATION

The file is available for review at the South Coast District office located 301 East Ocean Boulevard, Suite 300, Long Beach, 90802. The staff report can be viewed on the Commission's website: <http://www.coastal.ca.gov/mtgcurr.html>. For additional information, contact Eric Stevens in the South Coast District office at (562) 590-5071.

TABLE OF CONTENTS

- I. PROCEDURAL ISSUES 5**
 - A. STANDARD OF REVIEW 5**
 - B. PUBLIC PARTICIPATION 5**
 - C. PROCEDURAL REQUIREMENTS 5**
- II. MOTION AND RESOLUTION 6**
- III. FINDINGS AND DECLARATIONS 6**
 - A. DESCRIPTION OF THE IP AMENDMENT REQUEST 6**
 - B. CONSISTENCY WITH THE LUP 7**
 - C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) 9**

EXHIBITS

- Exhibit 1: City Council Resolution No. CC-1511-083 (Body Art and Massage)
- Exhibit 2: City Council Resolution No. CC-1710-186 (Cannabis)
- Exhibit 3: City Council Ordinance No. 3144-15 (Body Art)
- Exhibit 4: City Council Ordinance No. 3178-17 (Cannabis)
- Exhibit 5: City Council Ordinance No. 3147-15 (Massage)
- Exhibit 6: Strike-Out Underline Cannabis Ordinance

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The standard of review for the proposed amendment to the IP of the City of Redondo Beach certified LCP, pursuant to Sections 30513 and 30514 of the Coastal Act, is whether the IP amendment conforms with, and is adequate to carry out, the provisions of the LUP portion of the City of Redondo Beach's certified LCP.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in LCP development. It states: "During the preparation, approval, certification, and amendment of any LCP, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of an LCP for approval, local governments shall hold a public hearing or hearings on that portion of the program, which has not been subjected to public hearings within four years of such submission."

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum amount of opportunities to participate in the development of the LCP amendment prior to submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to each of the Zoning Text Amendments, which comprise the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551(b) of Title 14 of the California Code of Regulations, the City resolution for submittal may specify that an LCP Amendment will either require formal local government adoption after the Commission approval, or that it is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, the City's submitted resolutions state that the ordinances will take effect automatically after Commission approval (Ref: Resolution Nos. CC-1511-083 (Body Art and Massage) and CC-1710-186 (Cannabis)). Therefore, if the Commission certifies the LCP amendment as submitted, no further City Council action will be necessary. Should the Commission deny the LCP amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the City, and the LCP amendment is not effective. Should the Commission deny the LCP amendment, as submitted, but then approve it with suggested modifications, then acceptance of those suggested modifications by the Redondo Beach City Council and a determination by the Executive Director of compliance with Section 13544 of the Commission's regulations will be required in order for the amendment to take effect. The modified LCP amendment will take effect at a subsequent Commission meeting if the Commission concurs with the Executive Director's determination that the City's action in accepting the suggested modifications approved by the Commission is legally adequate. If the City does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.

II. MOTION AND RESOLUTION

Approval of the IP Amendment as Submitted

Motion I:

I move that the Commission reject Amendment No. LCP-5-RDB-19-0045-2 to the City of Redondo 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 LCP Implementing Ordinances 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 I:

The Commission hereby certifies Amendment Request No. LCP-5-RDB-19-0045-2 to the LCP Implementing Ordinances for the City of Redondo Beach certified LCP 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.

III. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF THE IP AMENDMENT REQUEST

Body Art:

The City's proposed Body Art amendment modifies existing IP/Zoning Code section 10-5.402 to add in new definitions related to body art. Body art generally refers to tattooing and piercing. In addition, the ordinance adds "Body art studio" to the use classification tables in sections 10.5-620, 10.5-630, 10.5-640, and 10.5-710. Each of the modified use tables applies to different commercial zones in the City and a Condition Use Permit will be required for a Body art studio in the commercial zones. As proposed, Body art studios will be allowed on sites zoned for general commercial as follows: C-2, C-2A, C2-B, C-2-PD, C-3, C-3A, C-3B, C-3-PD, C-4, C-4-PD, and C-5A. In addition, Body art studios will be allowed on sites zoned for Coastal Commercial as follows: CC-1, CC-2, CC-3, CC-4, and CC-5. The intent of the Coastal Commercial zoned properties is to provide for the continued evolution and use of the City's coastal related commercial-recreational facilities and resources, to enhance public opportunities for coastal recreation, and to strengthen the City's economic base and provide employment opportunities. In Coastal Commercial zoned areas, the LCP "Encourages uses which: (1) Are primarily oriented toward meeting the service and recreational needs of coastal visitors, boat users, and coastal residents seeking recreation..." All of the Coastal Commercial zoned sites are located directly adjacent to the harbor in the northern portion of the City. The ordinance also adds new IP/Zoning Code section 10-5.1630, which outlines criteria pertaining to body art studios. Specifically,

body art studios are not allowed to operate between 10 PM or 10 AM on any given day; employees must have necessary training, certification, and permits; live animals except for service animals are not allowed inside of the studios; temporary or mobile studios or events are prohibited within the City; no alcohol can be sold, consumed or purchased in the studios; and studios must be located a minimum of 1,000 ft. from one another. The City did not prepare a strike out/underline version of the ordinance to reflect changes to the existing IP/Zoning Code.

Massage:

The City's proposed Massage Business amendment modifies existing IP/Zoning Code section 10-5.402 to add in new definitions related to Massage Business. In addition, the ordinance adds "Massage Business" to the use classification tables in sections 10.5-620, 10.5-630, 10.5-640, 10.5-710, 10-5.810, and 10-5.910. Each of the modified use tables applies to different commercial zones in the City and a Condition Use Permit will be required for a Massage Business in the commercial zones. As proposed, Massage Businesses will be allowed on sites zoned for general commercial and mixed use as follows: C-2, C-2A, C2-B, C-2-PD, C-3, C-3A, C-3B, C-3-PD, C-4, C-4-PD, C-5A, MU-2, MU-3, MU-3B, and MU-3C. In addition, Massage Businesses will be allowed on sites zoned for Coastal Commercial as follows: CC-1, CC-2, CC-3, CC-4, and CC-5. The ordinance also adds new IP/Zoning Code section 10-5.1628, which outlines criteria pertaining to Massage Businesses. Specifically, Massage Businesses cannot operate in a location where illegal activity has occurred within the past three years, the minimum separation between Massage Businesses must be at least 1,000 ft., and alcohol and condoms cannot be sold, consumed, or purchased in any Massage Business. The City did not prepare a strike out/underline version of the ordinance to reflect changes to the existing IP/Zoning Code.

Cannabis

The City's proposed Cannabis amendment modifies existing IP/Zoning Code section 10-5.1626. The existing code section dealt exclusively with regulations related to medical cannabis dispensaries. As amended, the code section would address both medical and recreational cannabis activities. Specifically, the proposed ordinance clarifies that indoor cultivation of up to six cannabis plants for personal use in a private residence, or inside a fully enclosed and secured structure located at the residential site is consistent with State law. In addition, the City proposes to allow for delivery of medical cannabis. However, all other commercial cannabis activities including cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, transportation, distribution, recreational cannabis delivery, or sale of cannabis and cannabis products, would be prohibited city-wide. **Exhibit 6** includes a strike out/underline version of the ordinance.

B. CONSISTENCY WITH THE LUP

The standard of review for the proposed amendment to the LCP 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 LUP.

Body Art:

City of Redondo Beach
LCP Amendment No. 2-19 (Major)

The City's existing IP/Zoning Code does not include tattoo and body piercing studios as a permitted use within any zone of the City. In 2010, the US 9th Circuit Court of Appeals ruled that cities cannot legally prohibit tattoo and body piercing businesses from operation. The court ruled that these activities were protected by the First Amendment. The intent of the City's Body Art ordinance is to allow these types of businesses, subject to appropriate criteria. This portion of the City of Redondo Beach LCP Amendment No. 2-19 has been determined by the Executive Director to be a "major" LCP amendment because it includes a new land use (Body art studios). There are currently three Body art studios (tattoo and/or piercing) in the City, which are all located outside of the Coastal Zone. Body art studios within the Coastal Zone have remained prohibited pending Commission approval of the subject LCPA. The proposed ordinance allows Body art studios within the Coastal Zone and could result in new businesses opening within the Coastal Commercial zoned areas. The City's requirement that the Body art studios be located a minimum of 1,000 ft. from one another, limits the amount of new Body art studios that may open, therefore, it is unlikely the addition of new Body art studios within the Coastal Zone will have a negative affect on community character. The proposed ordinance does not raise issues with regard to the coastal resource or public access policies of the City's certified LUP, including protection of community character, which is a fundamental objective of the City's LCP.

Massage:

The proposed changes to the massage establishment regulations are proposed to respond to changes in State law through the creation (Senate Bill 731), modification (AB 1147 & SB 1147), and extension (AB 2194) of the Massage Therapy Act, the purpose of which is to professionalize the massage industry and minimize prostitution and human trafficking. In response to the changes in State law, the City's proposed changes to the LCP's implementing ordinances include the creation of new regulations for massage establishments to specify how these establishments should be sited and designed. This portion of the City of Redondo Beach LCP Amendment No. 2-19 has been determined by the Executive Director to be a "major" LCP amendment because it includes a new land use to be regulated (Massage Businesses). The result of the more restrictive regulations, specifically the requirement that Massage Businesses must be located a minimum of 1,000 ft. from one another, could result in fewer Massage Businesses in the City. Although, Massage Business are frequented by coastal visitors, they do not represent a coastal-dependent use. Furthermore, the proposed regulations do not affect the general requirements for businesses within the Coastal Commercial zoned site. Thus, a reduction in the number of Massage Businesses is unlikely to significantly affect the community character of the City's Coastal Zone. The proposed ordinance does not raise issues with regard to the coastal resource or public access policies of the City's certified LUP, including protection of community character, which is a fundamental objective of the City's LCP.

Cannabis

The Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (AUMA) was approved by a majority of California voters in November of 2016. As a result, it is now legal for persons 21 years of age or older to: 1) smoke or ingest cannabis or cannabis products; 2) possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older one ounce of cannabis, or eight grams of concentrated cannabis; and 3) possess, plant, cultivate, harvest, dry or process up to six cannabis plants for personal use in, or on the grounds of a private residence. Furthermore, the Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017 (MAUCRSA) creates the

general framework for the regulation of commercial medicinal and adult-use cannabis in California, which retains the provisions of prior cannabis regulations that granted local jurisdictions certain control over whether cannabis businesses can operate in a particular jurisdiction.

This portion of the City of Redondo Beach LCP Amendment No. 2-19 has been determined by the Executive Director to be a “minor” LCP amendment because it does not raise issues with regard to the coastal resource or public access policies of the City’s certified LUP, including protection of community character, which is a fundamental objective of the City’s LCP. The cultivation of cannabis for personal use on residential property consistent with State law is an activity that can be considered to be part of the residential use of the property. Thus, the fundamental residential use of property would not change as a result of adoption of the proposed amendment. Accordingly, this portion of the amendment request does not change the kind, location, intensity, or density of use and is, therefore, minor in nature.

In summary, the proposed the proposed LCPA related to cannabis, Body art studios, and Massage Businesses are not expected to adversely impact coastal access or coastal resources, including community character within the Coastal Zone and therefore conform with, and are adequate to carry out, the provisions of the certified LUP.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City of Redondo Beach adopted an exemption declaration which concluded that the proposed text amendments to the Redondo Beach Municipal Code are not subject to environmental review under the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) [No Physical Changes to Environment], 15060(c)(3) [Not a Project], and 15061 (b)(3) General Rule Exemption].

Furthermore, Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the Coastal Commission acts as lead agency for the purposes of fulfilling CEQA. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP submission. The City concluded that there was no possibility that the activity would have a significant effect on the environment and therefore determined that the LCP amendment was not subject to CEQA.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. This report has discussed the relevant coastal resource issues with the proposed amendment and found that the amendment would not result in an intensification of land uses, or have adverse impacts on coastal resources. The proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).