

CALIFORNIA COASTAL COMMISSION

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W10a

May 24, 2019

TO: Commissioners and Interested Persons

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

RE: Amendment Request No. 3-18A (LCP-5-LOB-18-0100-3-Part A) to the City of Long Beach Local Coastal Program, for Commission Action at its June 12, 2019 meeting in San Diego.

Local Coastal Program Amendment No. 3-18A

The Coastal Commission certified the City of Long Beach Local Coastal Program (LCP) on July 22, 1980. Local Coastal Program Amendment Request No. 3-18 Part A affects only the City's zoning code, which is the implementing ordinances portion of the certified LCP. Changes to the massage establishment regulations are proposed with the intent to professionalize the massage industry and minimize prostitution and human trafficking by, in part, separating massage establishments from adult entertainment businesses and creating new regulations for massage establishments. The Long Beach Planning Commission held a public hearing for the zoning code changes on February 15, 2018. On June 19, 2018, the Long Beach City Council held a public hearing for the zoning code changes and adopted ORD-18-0018. On July 10, 2018, the City Council adopted Resolution No. RES-18-0085, authorizing City staff to submit the LCP amendment to the Coastal Commission. The City submitted LCP Amendment Request No. 3-18, including the subject ordinance and resolution, on December 28, 2018 and Commission staff deemed the LCP amendment request complete January 11, 2019. On March 6, 2019, the Coastal Commission extended the deadline for Commission action on LCP Amendment Request No. 3-18, determined to be a major amendment, for one year to April 10, 2020.

STAFF RECOMMENDATION

Part A of LCP Amendment Request No. 3-18 for revisions to regulations regarding massage establishments is currently before the Commission; other portions of LCP Amendment No. 3-18 will come before the Commission at future Commission meetings. 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 whether 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 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 separation of massage establishments

from adult entertainment businesses and creation of new regulations for massage establishments to specify how these establishments should be sited and designed. 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. 3-18 Part A 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. 3-18 Part A 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. 3-18A would amend the City's implementing ordinances to update regulations regarding massage establishments. The proposed changes to the massage establishment zoning regulations are in response to changes in State law through adoption of the Massage Therapy Act (Senate Bill 731, effective December 31, 2014), which was modified through Assembly Bill 1147 and Senate Bill 1147 and extended through January 1, 2021 by Assembly Bill 2194. The aim of the Massage Therapy Act and the City's proposed changes to the implementing ordinances is to professionalize the massage industry and minimize prostitution and human trafficking. Thus, the City is proposing to amend its LCP to separate massage establishments from adult entertainment businesses, limit the siting of new massage establishments and provide a minimum distance between existing massage establishments and new ones, and create new requirements for massage establishments that include making the reception or waiting area visible from public view points and posting information on human trafficking resources in a visible location near an establishment's entrance. Long Beach City Council Resolution No. RES-18-0085 and Ordinance No. ORD-18-0018 adopting the proposed zone changes are included in **Exhibit 1**. The proposed changes to

the certified IP are shown in underline and strikethrough in **Exhibit 2**. **Exhibit 3** is a map of the areas within the coastal zone that would be affected by the proposed LCP amendment, which include smaller commercial strips (one to 5 blocks at the inland extent of the coastal zone), the commercial area along 2nd Street, and commercial areas around Belmont Pier, the Downtown Shoreline District, and Alamitos Bay.

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 whether 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 residential density, and balance human use of coastal resources with ecological concerns. While there are no LUP policies that explicitly mention massage establishments, the LUP does allow for commercial uses and development in portions of the coastal zone, including in Planned Development Areas like the Downtown Shoreline area, the Belmont Heights/Belmont Park Communities Area, and the Southeast Area Communities area. The proposed IP amendment modifies the existing certified IP policies for massage establishments and is not in conflict with these policies or any other policy in the certified LUP because it proposes to establish a minimum distance between massage establishments and design criteria requiring registration and waiting areas to be visible, rather than obscured through window tinting or other methods, from public viewpoints. In addition, the City proposes language that requires information on human trafficking resources to be posted in a visible location near a massage establishment's entrance. The proposed LCP amendment only applies in commercially zoned areas (**Exhibit 3**); thus, the proposed changes to siting and design standards will not result in any adverse impacts to coastal resources, including visitor-serving commercial development, biological resources, residential character, or coastal access and recreation. 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 (CEQA) review of the proposed LCP amendment. In December 2017, the City issued a Negative Declaration (ND-05-17) for the proposed change to the zoning regulations. Pursuant to 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.