

Agenda Report

March 25, 2019

TO: Honorable Mayor and City Council

FROM: Planning and Community Development Department

SUBJECT: AMENDMENTS TO PASADENA MUNICIPAL CODE TITLE 17 (ZONING CODE), CHAPTERS 17.50, 17.60, AND 17.80 TO UPDATE DEFINITIONS AND REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the Zoning Code Amendments are exempt from the California Environmental Quality Act ("CEQA") pursuant to the CEQA Guidelines Section 15061(b)(3) - that there is no possibility that the amendments will have a significant effect on the environment.
2. Introduce and conduct the first reading of an ordinance amending Section 17.50.295 (Sexually Oriented Businesses), Section 17.60.030 (Concurrent Permit Processing), and Section 17.80.020 (Definitions) of the Zoning Code.

ADVISORY COMMISSION/BOARD/CITY COUNCIL COMMITTEE RECOMMENDATION:

At a public hearing on February 27, 2019 the Planning Commission recommended that the City Council find that the Zoning Code Amendments are exempt from CEQA. The Planning Commission also found that the proposed Zoning Code Amendments are in conformance with the goals, policies and objectives of the General Plan and would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. Finally, the Planning Commission recommended that the City Council approve the proposed Zoning Code Amendments.

BACKGROUND:

The Pasadena Municipal Code includes regulations for sexually oriented businesses under Title 5 – Business Licenses and Regulations, Chapter 5.45 – Sexually Oriented Businesses and under Title 17 – Zoning Code. The last time the Title 17 provisions

were updated was 2006. To account for intervening judicial decisions and developments in the sexually oriented business industry, now is an appropriate time to consider updates to the definitions and regulations that govern these businesses. The City Council recently approved amendments to Title 5, Chapter 5.45. Subsequently, amendments to Title 17 - Zoning Code ("Amendments") are warranted to update Sections 17.50.295, 17.60.030, and 17.80.020 to address various legal and industry developments and to modernize the definitions and regulation of sexually oriented businesses, consistent with related amendments to Title 5, Chapter 5.45.

Sections 17.50.295, 17.60.030, and 17.80.020 include definitions of terms related to sexually oriented businesses, location requirements, and provisions for amortizing nonconforming sexually oriented businesses. Since these sections are part of the Zoning Code, the Planning Commission has reviewed these Amendments, made the required findings, and recommended that they be approved by the City Council.

DISCUSSION:

Secondary Effects Evidence and Findings

The City has recognized that sexually oriented businesses, as a category of businesses, have negative secondary effects and that both licensing and zoning regulations are necessary to prevent or minimize these deleterious effects on the community. The City's 2006 licensing and zoning ordinances were supported by extensive secondary effects documentation regarding a wide variety of sexually oriented businesses.

The Amendments update the City's reliance on evidence of those adverse impacts, and adds new judicial decisions, reports, and studies that have emerged since 2006. These materials document the efforts of businesses specializing in erotica to avoid regulation as sexually oriented businesses while retaining their essentially "adult" nature. Newer reports also complement recognized secondary effects while explicating the harms associated with human and sexual trafficking. Updating the secondary effects evidence relied upon by the City supports the regulation of sexually oriented businesses and enhances the defensibility of the regulations. Attachment B includes an Index to Legislative Secondary Effects Documentation which sets forth the evidence relied on for the Amendments. The City Council has been provided with the full set of documents on a thumb drive, and the documents are also available at the City Clerk's office.

Definitions

The Amendments are intended to bring Section 17.80.020 (Definitions) of Title 17 into consistency with the definition amendments to Chapter 5.45 of the Municipal Code, as approved by the City Council. Definitional changes approved for Chapter 5.45 include revisions to and addition of a number of definitions to update the terminology used for regulating adult uses. For example, the updated definitions contain additional objective thresholds for identifying a store as an adult bookstore and add the defined term "floor

space” for use with the definition. They also adjust definitions of “adult cabaret,” “adult motion picture theater,” and “nudity” to strengthen those terms against arguments that have been addressed in other communities. The terms “sexual device” and “sexual device shop” are updated to regulate establishments that maintain their sexually-oriented, adult nature by specializing in sexual devices.

Regulations and Nonconforming Uses

The Amendments do not make any changes to separation requirements from sensitive uses. The Amendments retain the existing zoning district (CG) for sexually oriented businesses and the existing buffer distances that separate such establishments from child day-care centers, park and recreation facilities, schools, religious facilities, RS and RM districts, as well as to prevent a concentration of sexually oriented businesses in close proximity to one another. The Amendments also retain the 12 month amortization period for any lawful, nonconforming sexually oriented business but remove the procedure for extending that amortization period. The definition of “Hearing Officer” in Section 17.80.020 and Table 6-1 regarding concurrent permit processing in Section 17.60.030 are adjusted to reflect the removal of sexually oriented business hardship extensions.

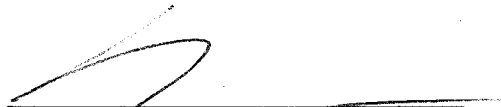
ENVIRONMENTAL ANALYSIS:

The adoption of the proposed Amendments is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines, the general rule, in that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The Amendments would not change the locations in which these land uses may locate beyond what is currently allowed, and are instead changes to the way the City regulates this industry in general. Thus, there is no possibility that the amendments will have a significant effect on the environment.

FISCAL IMPACT:

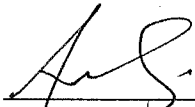
The Amendments do not change any licensing fees and thus should have no fiscal impact.

Respectfully submitted,



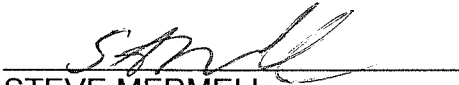
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Approved by:



STEVE MERMELL
City Manager

Attachments: (2)

- Attachment A – Planning Commission Recommended Findings for Proposed Amendments
- Attachment B – Pasadena, California, Sexually Oriented Business Regulations, Index to Legislative Secondary Effects Documentation (a complete record of these documents are available in the City Clerk's Office).