



PLANNING COMMISSION RESOLUTION NO. 21066

Project Name: Massage Establishment Zoning Controls
Case Number: 2021-012566PCA [Board File No. 211263]
Initiated by: Supervisor Ronen / Introduced December 6, 2021
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RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO REVISE MASSAGE ESTABLISHMENT ZONING CONTROLS, INCLUDING, AMONG OTHER THINGS, TO 1) ADD SOLE PRACTITIONER MASSAGE ESTABLISHMENTS TO THE DEFINITION OF HEALTH SERVICES IN ARTICLE 7; 2) REGULATE MASSAGE ESTABLISHMENTS CONSISTENT WITH HEALTH SERVICES, EXCEPT THAT WHERE ZONING FOR HEALTH SERVICES IS MORE PERMISSIVE, MASSAGE ESTABLISHMENTS SHALL REQUIRE CONDITIONAL USE AUTHORIZATION ON THE SECOND FLOOR AND ARE NOT PERMITTED ON THE THIRD FLOOR AND ABOVE UNLESS LOCATED WITHIN A HOTEL; 3) ELIMINATE THE THREE-MONTH PERIOD TO ESTABLISH ABANDONMENT OF CERTAIN NONCONFORMING MASSAGE ESTABLISHMENT USES; 4) PROHIBIT PERSONAL SERVICES USES FOR THREE YEARS AT ANY LOCATION WHERE A MASSAGE ESTABLISHMENT USE WAS CLOSED DUE TO A VIOLATION OF THE PLANNING CODE OR HEALTH CODE; 5) ELIMINATE THE EXCEPTION FROM THE CONDITIONAL USE AUTHORIZATION REQUIREMENT FOR MASSAGE USES ACCESSORY TO A DWELLING UNIT; AND 6) DELETE RELATED PROVISIONS THAT HAVE EXPIRED THROUGH THE PASSAGE OF TIME; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1, AND PUBLIC NECESSITY, CONVENIENCE, AND GENERAL WELFARE FINDINGS PURSUANT TO PLANNING CODE, SECTION 302.

WHEREAS, on December 6, 2021 Supervisor Ronen introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 211263, which would amend the Planning Code to revise Massage Establishment zoning controls, including, among other things, to 1) add Sole Practitioner Massage Establishments to the definition of Health Services in Article 7; 2) regulate Massage Establishments consistent with Health Services, except that where zoning for Health Services is more permissive, Massage Establishments shall require conditional use authorization on the second floor and are not permitted on the third floor and

above unless located within a Hotel; 3) eliminate the three-month period to establish abandonment of certain nonconforming Massage Establishment uses; 4) prohibit Personal Services uses for three years at any location where a Massage Establishment use was closed due to a violation of the Planning Code or Health Code; 5) eliminate the exception from the conditional use authorization requirement for massage uses accessory to a dwelling unit; and 6) delete related provisions that have expired through the passage of time;

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 3, 2022; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15378 and 15060(c)(2); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modification** the proposed ordinance. The Commission’s proposed recommendations are as follows:

1. Amend the NC-2 Zoning Control Table to make Massage Establishments Principally Permitted on the first floor.

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The proposed Ordinance would allow Massage Establishments as an Accessory Use to Health Services.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

Policy 1.2

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

The proposed Ordinance builds on Supervisor Ronen's recent ordinance further aligning Massage Establishments with other Health Services. The Department of Public Health (DPH) would continue to review the business operations and licensing of Massage Establishments. Under this Ordinance, the Planning Code would still review Massage Establishments based on their land use and allow them as accessory to Health Services.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATION the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 3, 2022.



Jonas P. Ionin
Commission Secretary

AYES: Chan, Diamond, Fung, Imperial, Koppel, Moore, Tanner

NOES: None

ABSENT: None

ADOPTED: February 3, 2022