



MINUTES

Regular Meeting of the Planning Commission

MONDAY, May 1, 2017

City Council Chambers

1 Civic Center Drive, San Marcos, CA 92069

CALL TO ORDER

At 6:30 p.m. Planning Commission Chair Flodine called the meeting to order.

PLEDGE OF ALLEGIANCE

Commissioner Matthews led the Pledge of Allegiance to the Flag.

ROLL CALL

The Secretary called the roll:

PRESENT: COMMISSIONERS: FLODINE, JACOBY, KILDOO, MATTHEWS, MINNERY, NORRIS, OLEKSY,

ALTERNATE COMMISSIONERS IN AUDIENCE: MAGEMENEAS, SCHAIBLE

ABSENT: None

Also present were: Planning Manager, Karen Brindley; Deputy City Attorney, Wendy House; Deputy City Attorney, Avneet Sidhu; Office Specialist III, Lisa Kiss; Sr. Office Specialist, Shauna Vuoti

ORAL AND WRITTEN COMMUNICATIONS

None.

CONSENT CALENDAR

1. APPROVAL OF MINUTES, 4/3/17

Action:

COMMISSIONER FLODINE MOVED TO APPROVE CONSENT CALENDAR AS PRESENTED; AND CARRIED BY A MAJORITY VOTE WITH FLODINE ABSTAINING (due to his absence).

PUBLIC HEARINGS

Brindley: Introduced Wendy House, Deputy City Attorney, who will be presenting, and Shauna Vuoti, Finance Dept., who processes massage-related licenses. Announced that City is providing translation services during meeting in both Cantonese & Mandarin and asked translator to raise hand if they need clarification.



2. **Case No:** P17-0022 (Text Amendment TA-17-002)

Applicant: City of San Marcos

Request: Amend zoning and land use regulations (Sections 20.220, 20.225, 20.405.070, 20.600.150 20.600.180, and adding 20.400.250 of Title 20 of the San Marcos Municipal Code) governing massage businesses consistent with Assembly Bill 1147.

The Planning Commission will review proposed provisions regulating the business of massage consistent with the provisions of California Assembly Bill 1147, including proposed revisions to Title 5 of the San Marcos Municipal Code, but will only consider and make a recommendation to the City Council on the proposed zoning and land use regulations that are within the scope of the Planning Commission's jurisdiction.

Environmental Determination: Exempt from CEQA pursuant to CEQA General Rule Section 15061(b)(3) because it can be seen with certainty that there is no possibility of a significant effect on the environment.

Staff Presentation (Wendy House):

PowerPoint presentation shown. Discussed background: City held two public workshops with business community stakeholders, received helpful feedback & considered input in drafting the proposed regulations. Overall, they're designed to protect & preserve the community in legally operating massage businesses and were well received by massage community. Discussed historical state laws, SB731 and AB619, and current state law, AB1147. State retains enforcement powers over regulating practice of massage & certification of massage professionals (CAMTC). Effective 1/1/15, AB1147 re-established CAMTC, the voluntary state certification process, and granted local agencies more authority to regulate the business of massage. City must amend its massage ordinance to comply with current State laws under AB1147. When City updated Zoning Ordinance in 2012, it created a regulatory structure consistent with AB619 to regulate like all other professional services, but is no longer required to do so. City can now limit the establishments to certain zones and implement site specific standards. There's been a substantial increase in number of massage businesses throughout State since CAMTC went into effect. The city currently has 35 establishments, one pending & 134 technicians. The number operating has greatly increased over 10 years - in '06 there was one. Law enforcement agencies throughout state, including San Marcos, have reported an increase in calls/complaints concerning potential illegal activity. In 2017, a number of cities had to shut down businesses and arrested individuals involved in prostitution and human trafficking. In Feb. '17, San Marcos conducted 20 routine inspections & found a number of violations: Fire & building codes, unpermitted or illegally displayed signs, construction performed without a permit, expired or no license, technicians operating without CAMTC, and others. Staff researched other cities & obtained information from CAMTC & League of CA Cities. The city is addressing concerns regarding saturation, separation, potential illicit activity, advertising & business practices. Discussed proposed amendments: All persons performing massage must have & wear a CAMTC ID badge and CAMTC certificates must be displayed. There are new establishment & outcall massage license requirements. Sexually suggestive advertising is prohibited. There are additional grounds to deny/suspend or revoke license. Holistic health practitioners are no longer exempt. Existing technicians and establishments will have 30 days from effective date of Ordinance to comply. They will have one year to comply with obtaining a CAMTC certificate. Discussed changes to Tables & Sections. Would no longer permit establishments to obtain a CUP in lieu of having all massage technicians possess a CAMTC certificate. Restricts massage businesses to certain zones: Commercial, certain SPA's and mixed use. Shopping centers must possess commercial land use controls. Discussed 1,000 ft. distance



limitation & exemptions. Imposed a cap limitation on number of establishments to 1 per every 2,500 inhabitants. Legal, Non-Conforming use discussed. Hours restricted to 8 am - 10 pm. It's recommended that the Planning Commission recommend approval & adoption of Resolution to City Council. Regulation of the businesses is necessary to maintain City's character, diversity & vitality of commercial areas, prevent increase or oversaturation, minimize nuisances & decrease law enforcement calls. Under CEQA, it is not considered a project and is exempt; there is no significant effect on the environment.

Matthews: Asked if it applies to receptionist/scheduler?

House: The CAMTC only applies to persons performing massage.

Kildoo: Asked if the CAMTC certification is voluntary?

House: CAMTC is voluntary and local agencies can require it in their jurisdictions.

Kildoo: Inquired if the City capped the number to what they currently have?

House: It's based on 94,000 residents, and would allow for about three more.

Brindley: Added that staff consulted with the State Dept. of Finance this AM for population numbers and is effective May 1st, for estimates done Jan. '17.

Kildoo: Asked why they don't let the market set the maximum?

House: Primary reason is to assist in enforcement efforts. If they allow more than code enforcement & sheriff's dept. can enforce, it puts a burden on them to conduct inspections and ensure compliance with state laws.

Kildoo: Inquired what agency does inspections?

House: Code Enforcement, Sheriff's Dept. and County Health.

Norris: Expressed that he doesn't want to tell businesses they can't come to San Marcos because City doesn't have the proper staff. It goes for all businesses, he doesn't want to over-regulate, but understands the reasons for it. Asked how long existing establishments have to come up to code?

House: Businesses must comply within 30 days of the effective date of Ordinance, which could be mid/end of August. Added that the existing businesses have all been given advance notice, workshops were held, etc.

Norris: Asked if the effective dates are included?

Flodine: Code chapter addresses that. Suggested a footnote or reference to the table?



Brindley: Pointed out the footnote under Land Use Tables, Table 20.220-2 as well as Table 20.225-5 that makes references to regulatory obligations of Chapter 5.44 and Title 5, which incorporates the reference.

Jacoby: Inquired whether a hotel with spa facilities is regulated the same?

House: Yes.

Oleksy: Asked about a change of ownership within 1,000 ft. of another, and whether they'll be grandfathered in? Or, would they need to move outside 1,000 ft. radius?

House: Transfer of ownership would be exempt. If they move, they're subject to discretion of Planning Manager.

Oleksy: Asked if the 1,000 feet is aerial or road distance?

House: Indicated it's measured in straight line to property lines.

Brindley: Direct line measurement. Development Services staff can assist an applicant if they have any questions.

Oleksy: Asked about the prohibition on sexually explicit advertising and if that includes internet/websites? And is it enforceable?

House: Yes.

Flodine: Commented he couldn't find a definition of massage as an accessory use. Asked for an example?

Brindley: The difference is whether it's a primary use or accessory. Accessory use parameters would be max of 20% gross floor area; example could be a rental space in a beauty salon or spa.

Flodine: Asked if a hotel with a spa would be accessory use?

House: Replied no, the accessory use must be related to the primary use. Massage is not related to a hotel use.

Flodine: Commented that you can go to a hotel for relaxation & hospitality; it seems like an accessory use.

Minnery: Inquired about physical therapy or medical facilities?

House: If the person performing massage is licensed by state of CA, they're exempt and can perform massage within the boundary of what their license permits. A cosmetologist may perform massage for areas of body they're permitted under state certification.



Flodine: Asked about a hotel with massage as a service? Inquired if City staff has the tools they need to enforce? The hotel will think it's an accessory use.

House: Massage, Accessory Use is defined under "M" Definitions.

Brindley: Pointed out the definition on page 10 of Resolution. (Read aloud).

Flodine: Stated that he feels that is a hotel.

Brindley: Indicated staff would have the ability under the definition to make the determination and can evaluate it within that context.

Matthews: Suggested adding spa-type treatments under "P" Definitions?

Brindley: Explained the reason for strikeout & removing from personal services, previously the State required City to not treat massage establishment differently than other personal services. Staff now has ability to evaluate based on the applicant's floor plan and weigh with other uses, hotel setting, etc.

Matthews: Asked if massage accessory is defined as square footage?

Brindley: Gave explanation. It's based on floor plan/overall footprint of inside of building. Example: Do they have five rooms of massage & two for haircutting? That provides staff opportunity to weigh in on where land use falls.

Flodine: Asked about hours prior to 8 AM?

House: Stated they had originally proposed 9 am, as is the case in most cities. During workshop, a couple businesses requested 8 AM, so City thought it was fair. Clarified earlier comment, the number of existing is 31; three are accessory use & not subject to cap. There is potential to have up to seven more at this time.

Jacoby: Commented that the barber shop he goes to provides a brief shoulder massage with haircut. Asked if they'd be exempt?

House: Replied they are exempt if licensed by state and fall under exemption category for beauticians and cosmetologist.

OPEN PUBLIC HEARING

No public comments.

CLOSE PUBLIC HEARING

Action:



COMMISSIONER JACOBY MOVED TO RECOMMEND APPROVAL TO CITY COUNCIL OF TA 17-002 AS SET FORTH IN RESOLUTION PC 17-4621; SECONDED BY COMMISSIONER MINNERY AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE:

AYES:	COMMISSIONERS: FLODINE, JACOBY, KILDOO, MATTHEWS, MINNERY, NORRIS, OLEKSY
NOES:	COMMISSIONERS: NONE
ABSENT:	COMMISSIONERS: NONE
ABSTAIN:	COMMISSIONERS: NONE

PLANNING MANAGER COMMENTS

Brindley: Announced next meetings will be 5/15 & 6/5.

PLANNING COMMISSIONERS COMMENTS

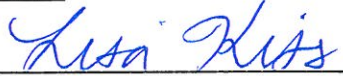
None.

ADJOURNMENT

At 7:18 p.m. Chairman Flodine adjourned the meeting.


ERIC FLODINE, CHAIRMAN
CITY OF SAN MARCOS PLANNING COMMISSION

ATTEST:


LISA KISS, OFFICE SPECIALIST III
CITY OF SAN MARCOS PLANNING COMMISSION