



CITY COUNCIL STAFF REPORT

MEETING DATE:	24 May 2017
PROJECT NUMBER:	T-17-006
REQUEST:	A recommendation to the City Council to amend Chapter 17.15 of the South Salt Lake City Municipal Code to adopt regulations for massage therapy businesses.
APPLICANT:	Jet Wan Sum
PREPARED BY:	Francis Xavier Lilly, AICP, Deputy Director

SYNOPSIS

Jet Wan Sum petitioned the City Council to amend the Commercial Land Use Matrix to allow for chair massage businesses to operate in South Salt Lake City. The City's current standard permits massage in the commercial corridor only as part of a medical, chiropractic, day spa, or similar business. The proposed ordinance change would permit freestanding massage businesses in common areas in enclosed shopping malls. Massage would continue to be allowed in the commercial corridor as an accessory use to medical, chiropractic, and day spa businesses.

COMPATIBILITY WITH GENERAL PLAN AND ZONING ORDINANCE

The General Plan supports regulating land uses based on compatibility with surrounding uses and determining economic advantages. Chair massage businesses are common in enclosed shopping malls and could be a viable addition to the commercial activity at Chinatown at 3390 South State Street, South Salt Lake's only enclosed shopping mall.

Among the goals of the land use code is to provide for the health, safety, and welfare, and to promote the prosperity of residents and businesses in the City. The City's policy regarding massage businesses is intended to further these goals. By allowing massage as a primary use only in common area in shopping centers, and only as an accessory use elsewhere in the commercial corridor zone, these goals can be furthered while promoting legitimate massage businesses in the City.

PLANNING COMMISSION RECOMMENDATION:

Unanimous approval for a recommendation to the City Council to amend Chapter 17.15 of the South Salt Lake City Municipal Code to adopt regulations for massage therapy businesses, based on the following findings:

1. The proposed ordinance is consistent with the General Plan goals of regulating land uses based on compatibility with surrounding uses and determining economic advantages and capitalizing on them.
2. The proposed ordinance is consistent with the goal of the land use code to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of the City of South Salt Lake and its present and future inhabitants and businesses. As well as to enhance the quality of life in South Salt Lake by improving the community's appearance, safety, education, positive outlook, gathering places and positive momentum.

Continuance, due to issues raised during the staff presentation.



CITY COUNCIL STAFF REPORT

Analysis:

The applicant is seeking an amendment to the South Salt Lake Municipal Code that would enable the applicant to operate a chair massage business in the common area pedestrian pathway in Chinatown, located at 3390 South State Street.

Currently, Section 17.15.030 of the Municipal Code permits massage therapy in the commercial corridor but limits it to activity that is associated with or connected to a medical, physical therapy, chiropractor, day spa or similar use as determined by the Community and Economic Development Director. This language was intended to allow legitimate massage businesses to locate in the City while discouraging illicit activity from taking place under the auspices of a freestanding massage business.

The applicant in his petition agreed to conduct business in a manner that it would be open to the public and that the patrons would be fully clothed while undergoing massages. Staff supports the addition of this business because it promotes the legitimate exercise of massage businesses and fosters flexibility and business creation without undermining the City's public safety interest in massage businesses.

The applicant seeks only to change the qualifying regulations surrounding massage businesses in the commercial corridor zone. Specifically, the applicant is proposing to amend superscript 26 of the Commercial Land Use Matrix. The current ordinance text and proposed change is below:

EXISTING ORDINANCE

- 26. Massage Therapy.** Uses must meet all State, County and local business and licensing regulations. Massage therapy uses may be allowed as a permitted use in the Commercial Corridor district when the use is associated with or connected to a medical, physical therapy, chiropractor, day spa or similar use as determined by the Community and Economic Development Director.

PROPOSED LANGUAGE

- 26. Massage Therapy.** Uses must meet all State, County and local business and licensing regulations.
- 1. Massage therapy as a sole use.** Massage therapy as a primary use is only permitted in a common area in the pedestrian walkway of an enclosed shopping mall. Massages must take place in public view, and patrons must be fully clothed while they are receiving massages.
 - 2. Massage therapy as an incidental use.** Massage therapy uses may be allowed in the Commercial Corridor as an incidental use to a medical, physical therapy, chiropractor, or day spa use.

General Plan Considerations:

Goal LU-1. Regulate land uses based on compatibility with surrounding uses, residential areas, and economic feasibility. Maintain residential, business and industrial areas that are vibrant and where the health and safety of all are protected.

Goal ES-1. Determine all of South Salt Lake's economic advantages and capitalize on them.

Goal ES-3. Enhance the quality of live in South Salt Lake by improving the community's appearance, safety, education, positive outlook, gathering places and positive momentum.

Ordinance Requirements and Considerations:

Land Use Amendment Procedure:

17.01.150 Amendments.

- A. Amendments to the Zoning Map. Amendments to the zoning map shall be made in compliance with the provisions of this chapter and Utah State Code Annotated.
- B. Initiating Amendments and Corrections. Any citizen, property owner, the planning commission, the city council, or the community development director may initiate proposals for change or amendment of the South Salt Lake General Plan or any chapter or regulation of this code or the official city zoning map.
- C. Application. Any person seeking an amendment to the land use code or zoning map shall submit an application with the community development department indicating the change desired and how the change will further promote the goals and objectives of the general plan. Application will be processed and noticed to the public, when applicable, according to this code and Utah Code Annotated. Applications will be processed in an efficient manner in order to not cause the applicant unwarranted delays.
- D. Planning Commission. The planning commission shall:
 - 1. Fulfill all duties outlined in state statute that are to be performed by the planning commission.
 - 2. Prepare and recommend to the city council the general plan or amendments to the general plan, any proposed land use ordinance or ordinances and a zoning map, and amendments thereto that represent the planning commission's recommendation for regulating the use and development of land within all or any part of the area of the municipality.
 - 3. Hold a public hearing on a proposed land use ordinance or zoning map amendment.
- E. City Council. The city council:
 - 1. May adopt or amend:
 - a. The number, shape, boundaries, or area of any zoning district on the official city zoning map;

b. Any regulation of or within the zoning district; or

c. Any provision of the development code.

2. The municipal legislative body shall consider each proposed land use ordinance and zoning map recommended to it by the planning commission, and, after providing notice as indicated in this code and Utah State Code Annotated and holding a public meeting, the legislative body may adopt or reject the ordinance or map either as proposed by the planning commission or after making any revision the municipal legislative body considers appropriate. The city council is not bound by any recommendation from the planning commission.

17.05.110 Purpose of the land use code.

- A. The purposes of this title are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of the city of South Salt Lake and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the city's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values.
- B. To accomplish the purposes of this chapter, the city may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that it considers necessary or appropriate for the use and development of land within the city, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner's private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law.
- C. This code is adopted to implement the city of South Salt Lake's general plan and to promote public health, safety, convenience, aesthetics, welfare, stable land values, efficient land use, sustainable land use and building practices, crime prevention, transportation and accessibility, and efficiency in land use review and administration.
- D. The land use code is also established to facilitate orderly growth and development in the City of South Salt Lake and to enhance the lives of the citizens of the city.
- E. The land use code intends to establish a fair and efficient process for development and land use applications, as accomplished through the delegation of powers among city officials and a transparent review process.

STAFF RECOMMENDATION:

A recommendation to the City Council to amend Chapter 17.15 of the South Salt Lake City Municipal Code to adopt regulations for massage therapy businesses, based on the following findings:

1. The proposed ordinance is consistent with the General Plan goals of regulating land uses based on compatibility with surrounding uses and determining economic advantages and capitalizing on them.
2. The proposed ordinance is consistent with the goal of the land use code to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of the City of South Salt Lake and its present and future inhabitants and businesses. As well as to enhance the quality of life in South Salt Lake by improving the community's appearance, safety, education, positive outlook, gathering places and positive momentum.

Continuance, due to issues raised during the staff presentation.

ATTACHMENT

Example of chair massage business in an enclosed shopping mall.

Planning Commission Minutes



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OLD

HONG KONG

THERAPEUTIC MASSAGE



Planning Commission Regular Meeting Minutes

Thursday, May 4, 2017

City Council Chambers

220 East Morris Avenue

Time 7:00 p.m.

Commission Members Present: Jeremy Carter, Presiding
Laura Vernon
Ray deWolfe
Susan Dickstein
Jonathan Meakin

Staff Members Present: Francis Lilly, Deputy Community Development Director
Alexandra White, City Planner

Moment of Reflection: Chair Carter

Pledge of Allegiance: Commissioner Meakin

Motion to Approve the Agenda: Commissioner Dickstein

Second to the Motion: Commissioner Meakin

Vote: Unanimous

New Business

• **T-17-006**

- 1. A Recommendation to the City Council to Amend Chapter 17.15 of the South Salt Lake Municipal Code to Adopt Regulations for Massage Therapy Businesses.**

Action Item

Applicant Jet Wan Sum

Deputy Community Development Director, Francis Lilly, explained that the applicant is seeking to amend the South Salt Lake Municipal in order to operate a chair massage business in the common area pedestrian pathway in Chinatown, located at 3390 South State Street. Currently, Section 17.15.030 of the Municipal Code permits massage therapy in the commercial corridor but limits it to activity that is associated with or connected to a medical, physical therapy, chiropractor, day spa or similar use as determined by the Community and Economic Development Director. This language was intended to allow legitimate massage businesses to locate in the City while discouraging illicit activity from taking place under the auspices of a freestanding massage business. Mr. Lilly stated that the applicant has agreed to conduct business in a manner that it would be open to the public and that the patrons would be fully clothed while undergoing massages.

Mr. Lilly then read the existing ordinance language and the proposed language, as follows:

EXISTING ORDINANCE

26. Massage Therapy. Uses must meet all State, County and local business and licensing regulations. Massage therapy uses may be allowed as a permitted use in the Commercial Corridor district when the use is associated with or connected to a medical, physical therapy, chiropractor, day spa or similar use as determined by the Community and Economic Development Director.

PROPOSED LANGUAGE

26. Massage Therapy. Uses must meet all State, County and local business and licensing regulations.

1. **Massage therapy as a sole use.** Massage therapy as a primary use is only permitted in a common area in the pedestrian walkway of an enclosed shopping mall. Massages must take place in public view, and patrons must be fully clothed while they are receiving massages.
2. **Massage therapy as an incidental use.** Massage therapy uses may be allowed in the Commercial Corridor as an incidental use to a medical, physical therapy, chiropractor, or day spa use.

Mr. Lilly showed a photograph depicting the intended business, as provided by the applicant. Staff recommended approval of the application.

Mr. Lilly noted that staff was working on updating the regulations surrounding day spas, as the existing language was difficult to enforce. That amendment would be coming before the Planning Commission at a later date.

Chair Carter asked for further explanation of the State, County and local business and licensing regulations. Mr. Lilly explained that City staff and the Health Department jointly inspect all massage and day spa uses to be sure they are functioning to Code. Chair Carter wanted to be sure that other bodies are thorough when granting licenses.

The applicant, Jet Wan Sum, provided his educational and business background and stated that he began his massage business 22 years ago.

Commissioner Vernon asked the applicant if he would be doing acupuncture on his clients. Mr. Jet Wan said that he was not licensed to do so and would only be offering massages.

Chair Carter opened the public hearing at 7:15 p.m. There were no public comments. Chair Carter closed the public hearing.

Motion to recommend that the City Council AMEND Chapter 17.15 of the South Salt Lake Municipal Code to adopt regulations for massage therapy businesses.

Commission Vernon

Second to the motion:

Commissioner Meakin

Vote:

Unanimous

Continuing Business

There was none.

Commission Business

Motion to CONTINUE approval of the April 20, 2017 Planning Commission Meeting Minutes.

Motion to continue:

Commissioner deWolfe

Second the motion:

Commissioner Dickstein

Vote:

Unanimous

Staff Business – Information Items

There was none.

Adjournment

Motion to Adjourn:

Commissioner Meakin

Second:

Commissioner Dickstein

Vote:

Unanimous

The Planning Commission Meeting adjourned at approximately 7:17 p.m.

For Planning Commission

Michael Florence
Community Development Director