

# AGENDA NO. 4D

**City of Oceanside**  
**Development Services Department**  
**Memorandum**

DATE: March 4, 2015

TO: Development Advisory Committee

FROM: Development Services Department-Planning Division

SUBJECT: Consideration of Redevelopment Conditional Use Permit (RCUP) 14-00004, Redevelopment Regular Coastal Permit (RRP) 14-00007 to allow a "tattoo establishment" including seven (7) tattoo stations and one (1) body-piercing station within an existing 1,128 square foot commercial tenant space including a tattoo museum to be located at 212 North Coast Highway in the "D" (Downtown) District, Subdistrict 1(Oceanside Tattoo & Museum).

**RECOMMENDATION**

Staff recommends that the Development Advisory Committee review and comment on the proposed project and forward the project to the Community Development Commission for final action.

**PROJECT DESCRIPTION AND BACKGROUND**

The proposed project would be located within an existing tenant suite in an existing, multi-tenant commercial building located at 212 North Coast Highway which fronts the east side of the Highway and is situated between Pier View Way and Mission Avenue. The proposed business presently operates at 3753 Mission Avenue pursuant to Planning Commission Resolution 2000-P06. The existing building complex appears to have been constructed between about the 1930s and 1950s. The Planning Division project files do not include evidence of any recent land use activity nor requests for approval of discretionary applications for the multi-tenant building.

**Project Description:**

The proposed project requests City approval of discretionary applications to allow a "tattoo establishment" including seven (7) tattoo stations and one (1) body-piercing station to operate within an existing 1,128 square foot commercial tenant space (see Attachment 1, Project Description and Statement of Justification)(see Enclosure: Large scale Project Plans). The property is General Plan-designated "Redevelopment," and is

situated in the "D" (Downtown) Zone District, Subdistrict 1. The purpose and intent of Subdistrict 1 is, *"To provide a commercial/retail and office complex offering a wide variety of goods and services to both the community at-large and to tourists and visitors. Residential uses are encouraged when and where appropriate."* In response to staff's request, the applicant has prepared and submitted an operations and management plan for operation of the use (see Attachment 2, Oceanside Tattoo Operations & Management Plan).

## **ANALYSIS**

1. **General Plan consistency:** The General Plan Land Use Element designates Redevelopment Project Area as a Special Management Area with the objective *"To promote the long-term viability and rejuvenation of the redevelopment area consistent with the overall policies and improvements of the City."* With respect to this planning area, the General Plan establishes the sole policy that, "The Downtown Redevelopment Project Area (see Figure LU-9) shall be implemented by the Redevelopment Plan. This plan shall be implemented by the Oceanside Community Development Commission, consistent with City policy and the General Plan." Thus, the General Plan establishes the policy basis for the City to adopt and implement the Redevelopment Area Plan and the Redevelopment Zoning Ordinance (RZO). Inasmuch as the proposed project would be determined to be consistent with the Plan and Ordinance, the project would be consistent with the General Plan.
2. **Zoning Compliance:** The proposed project is subject to the provisions of the 2010 Redevelopment Zoning Ordinance. Article 36, Separation of Regulated Uses, provides that "tattoo establishments" are classified as a regulated use, and thus, require City approval of a Conditional Use Permit (see Attachment 3, Article 36, Separation of Regulated Uses). Article 41 establishes specific criteria for granting approval of use permits and staff have evaluated the proposed project accordingly:
  1. That the proposed location of the use is in accord with the objectives of this ordinance and the purposes of the district in which the site is located. Inasmuch as Subdistrict 1 of the 2010 Redevelopment Zoning Ordinance (RZO) is intended to provide visitor-serving commercial development within the downtown and the proposed use would provide both visitor-serving and resident-serving services, the proposed use would be in accord with the objectives of the RZO and the purpose of the District.
  2. That the proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City. Staff consulted with both the Oceanside Police Department (OPD) and the City's Code Enforcement Division to determine

whether the proposed business, which presently operates at 3753 Mission Avenue, had any active or prior code violations or service calls related to the operation of the use. Body Temple Tattoo has operated at this business location since about June 2000. Both OPD and Code Enforcement advised that there had been no prior code violations or service calls related to the use at Mission Avenue. Also, the Oceanside Chamber of Commerce and MainStreet Oceanside, both business organizations with an interest in promoting existing and new businesses within the downtown have provided letters of support (see Attachment 4, Oceanside Chamber of Commerce Letter and Attachment 5, MainStreet Letter). Based on the historical operation of the existing use and the support of the Chamber and MainStreet, the City could find that the proposed use will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.

3. That the proposed conditional use will comply with the provisions of this ordinance, including any specific condition required for the proposed conditional use in the district in which it would be located.

Furthermore, Article 36 describes “regulated uses” as follows:

*“In the development and execution of this ordinance it is recognized that there are some uses which, because of certain factors such as nature of operation, type of clientele, and hours of operation, create conditions harmful to the public health, welfare, and safety when such uses are allowed to become numerous or concentrated within a limited geographical area, or when such uses exist near residential neighborhoods. Special regulations separating such uses from each other and from nearby residential areas are therefore necessary to protect the community from consequent blight, depreciated property value.”*

Thus, the Ordinance establishes standards of separation of regulated uses from one another and separation from residential neighborhoods. The Code’s “Locational Requirements states that, “*It shall be unlawful for any regulated use to be located: (a) closer than 1,000 feet to any other regulated use; or (b) to be closer than 200 feet to any R district.*” The multi-tenant building is situated about 650 feet from the nearest residential zone district situated to the southeast near the corner of Freeman and Topeka. Thirteen (13) other “regulated uses” are situated within 1,000 feet of the proposed “tattoo establishment” (see Attachment 6, Regulated Uses 200 foot & 1,000 foot Radius Maps). Consequently, the applicant has requested a “Waiver of Locational Requirements” as provided by Section 3605 of the Redevelopment Zoning Ordinance and provided a statement of justification. Staff evaluated the proposed project with respect to the Code-mandate criteria for granting a waiver of locational requirements as follows:

1. Will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this ordinance will be observed. The proposed use would not inherently conflict with other commercial, retail, and service uses within the vicinity of the project which are largely comprised of visitor-serving uses. Furthermore, the operation and management plan includes provisions which will assure the proposed use is compatible with other neighboring uses/properties. The Operation & Management Plan (O&MP) includes provisions related to hours of operation, signage, pricing disclosure, client privacy, age and client condition restrictions, public health, staff training, and customer care. Implementation and enforcement of the O&MP will be recommended as a condition of approval.
2. Will not enlarge or encourage the development of a skid row or blighted area. The proposed use would not enlarge nor encourage the development of a skid row or blighted area because it will convert vacant tenant space to occupied business space, and will not likely result in additional nearby vacancies based on the experience of the current use at 3653 Mission Avenue.
3. Will not be contrary to nor adversely affect any program of redevelopment or neighborhood conservation. The proposed use does not conflict with any provisions of the City's redevelopment program nor neighborhood conservation efforts based on the proposed location and 650 foot distance separation from the nearest residential district. Furthermore, the City's Redevelopment Plan (Redevelopment Plan for the Downtown Redevelopment Project) establishes the primary goal "*...to eliminate and prevent the spread of blight and deterioration in the Project area..*" through several methods and programs including the "*Rehabilitation of structures and improvements by present owners, their successors, or the Agency.*" Because the proposed project would occupy vacant tenant commercial tenant space and result in façade improvements (i.e. signage, repair, painting, etc.), the project would further the objectives of and be consistent with the Redevelopment Plan.
4. (In connection with a requested waiver of Section 3604 [b] only) That notice was given to all property owners within 200 feet of the proposed location and said owners were given an opportunity to be heard. Before formal public hearing by the City Council and consideration of the requested waiver to the locational criteria, property owners will be provided with notification as prescribed by the Code.
5. The waiver will not adversely affect land values or the integrity of the underlying district. Given the relatively low density of regulated uses within the downtown, it is unlikely that the proposed use and waiver of locational requirements would adversely affect property values in the downtown. Research on the issue of the potential effects of regulated uses on property values yielded limited information. A study conducted by the City of Northport, Alabama found that a concentration of regulated uses within local, neighborhood centers could adversely affect property

values. However, regulated uses within a downtown area did not appear to effect property values as long as they were not concentrated in a single area (i.e. block or series of blocks). With respect to the proposed use, it would constitute the sole regulated use within the City block in which the business is located. The nearest "regulated use" is the former Murphy's Law Saloon located across Coast Highway from the proposed use. Three other regulated uses are located along Coast Highway within 1,000 feet of the proposed use. Two of those "regulated uses" are situated two blocks (760 feet) to the north and the other "regulated use" is situated one block (440 feet) to the south. Thus, within the 1,000 foot radius of the project site along Coast Highway, the proposed use would constitute the fifth regulated use over a 1,200 linear foot stretch of Coast Highway resulting in one "regulated use" per 240 linear feet of street frontage. Based on this analysis, the proposed project would not result in an over-concentration of "regulated uses" within the downtown.

6. The conditional use permit findings support the granting of the waiver. Based on a review of the Conditional Use Permit criteria and an analysis of the proposed use provided in the prior section of this report, the findings would support a granting of a the waiver.

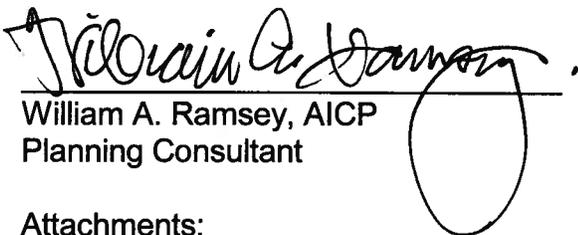
### **ENVIRONMENTAL DETERMINATION**

The proposed project is categorically exempt from review under the California Environmental Quality Act (CEQA) because it qualifies for issuance of a Class 1, Existing Facilities exemption (CEQA Guidelines, Section 15301). In the event the project is ultimately approved, the applicant will be issued a Notice of Exemption (NOE) for posting with the San Diego County Clerk-Recorder.

### **PUBLIC NOTIFICATION**

Public notification of the Development Advisory Committee meeting has been provided consistent with State law and local requirements through the posting of the meeting agenda.

PREPARED BY:

  
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William A. Ramsey, AICP  
Planning Consultant

SUBMITTED BY:

  
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Jeff Hunt  
Interim City Planner

Attachments:

1. Project Description and Statement of Justification.
2. Oceanside Tattoo Operations & Management Plan.
3. Redevelopment Zoning Ordinance, Article 36, Separation of Regulated Uses.

4. Oceanside Chamber of Commerce Letter.
5. MainStreet Letter.
6. Regulated Uses 200 foot & 1,000 foot Radius Maps.

Enclosure: Large scale Project Plans



1140 S. Coast Hwy 101  
Encinitas, CA 92024

tel 760-942-8505  
fax 760-942-8515  
[www.coastlawgroup.com](http://www.coastlawgroup.com)

**OCEANSIDE TATTOO**  
**Revised Project Description and Statement of Justification**

**26. Description and Justification:**

Applicants seek to relocate their existing business, currently located at 3753 Mission Ave., to 212 N. Coast Highway. The new 212 N. Coast Highway location will continue to provide existing services such as high-quality tattooing, body piercing, permanent makeup, and areola restoration for breast cancer survivors.

Applicants propose an expansion to these traditional services to additionally offer public education regarding the history and culture of tattooing around the world, as well as the long lost history of tattooing in Oceanside. Applicants have acquired and preserved historical tattoo artifacts and will display these unique items for viewing by art- and history-loving residents and tourists. With the resurgence of Artist's Alley, a high-quality tattoo parlor in this location will provide both locals and visitors from abroad a unique experience.

Construction will be limited to interior improvements to the existing building.

**Development Plans**

N/A

**Coastal Development Permits:**

The project site is within the Coastal Zone, within the Downtown District. The designated use is General Commercial in the LCP Land Use Map. Because the project requires a CUP, it also requires a Regular Coastal Permit. The site is consistent with both the Local Coastal Plan and Chapter 3 of the Coastal Act. The site is located 850 feet from coastal access areas. No expansion to the existing building is proposed. The project will therefore not affect public coastal access.

The project also furthers the City's goal of protecting, encouraging and providing lower cost visitor and recreational facilities. (LCP II.C.6; Pub. Res. Code §§30213, 30222). The tattoo parlor and its historical exhibition will be open to the public, and visitors will be afforded an opportunity to obtain a high quality tattoo at a reasonable price. The project's investment in and maintenance of the existing building, as well as the new signage will help enhance the visual quality and aesthetics of the downtown redevelopment area. (LCP VI. B.5 and 6; VI.C.11).

**Variances:**

See below regarding regulated uses.

**Conditional Use Permit:**

***(a) The proposed location of the use is in accord with the objectives of the Zoning Ordinance and the purposes of the district in which the site is located.***

The Downtown/Redevelopment Area is divided into 15 subdistricts. The proposed location is within Subdistrict 1: Commercial Retail and Office/Residential possible. The purpose of Subdistrict 1 is to provide commercial/retail offering a wide variety of goods and services to both the community at large and tourists and visitors. (Redevelopment Zoning Ordinance §120).

Redevelopment Zoning Ordinance Article 4(a) enumerates the uses allowed within the Downtown/Redevelopment Area within each subdistrict. Tattoo parlors are a use implicit in the Redevelopment Zoning Ordinance as a regulated use. Therefore, a Zoning Ordinance amendment and associated LCP amendment are not be required, but compliance with §3604 pertaining to regulated uses is required.

The project is consistent with Redevelopment Plan Section 301 as it prevents blight by providing a new commercial use for an underutilized property and will bring street-front commercial and visitor-serving opportunities to the area. The existing building is in close proximity to the Oceanside Museum of Art, which has an annual tattoo art exhibition which will be complimented by the project's public display.

Tattoo Establishments are a regulated use enumerated in Article 36 of the Redevelopment Zoning Ordinance. A waiver of the locational requirements in section 3604 is required due to the project's proximity to other regulated uses (within 1,000 feet). (§3605). Because the project is considered a location protected by the First Amendment, "[o]nly the defined, objective guidelines and standards of [the Redevelopment Zoning Ordinance] shall apply." (§3605.B.1.). Therefore, no general health, safety and welfare requirements apply to the waiver consideration.

Nonetheless, the project will comply with all section 3605(A) requirements in that it:

**1. Will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this ordinance will be observed.**

Historically, businesses that provide tattoo services have been disfavored for various reasons, including perceived health concerns with tattoo needle reuse and ink contamination, and the notion that only unsavory individuals (such as bikers, strippers, and pirates) seek to put such artwork on their bodies. While there may remain those in the community who hold onto such bias, the facts no longer support such discrimination.

In 2011, California passed the Safe Body Art Act (Health and Safety Code §119300 *et seq.*), a uniform set of standards for the body art industry to protect the health and safety of body art practitioners, their customers and the public. The County of San Diego, through its Department of Environmental Health, implements the Act via its "Body Art Program," whereby body art practitioners performing tattoo, piercing, permanent cosmetics and branding on a person's skin are required to received annual training in bloodborne pathogen standards to ensure they know how to prevent transmission of blood-borne diseases, and the facilities where such activities are performed must have a valid health permit subject to regular inspection.

Regarding who actually gets tattoos, recent studies suggest they are prevalent throughout age groups and socioeconomic classes. According to a 2006 survey by the Pew Research Center, 36% percent of people from ages 18-25, 40% of people from ages 26-40, and 10% of people from ages 41-64, had or once had at least one tattoo. While publicly tattoos are perceived as commonplace among actors, musicians, and athletes, they are also particularly prevalent throughout those in the armed forces and public safety sectors (police and fire). Doctors, lawyers, teachers, moms and dads all get tattoos today. Some people get tattoos for artistic expression, some to honor loved ones who have passed, and some to proclaim their heritage.

Certainly there is nothing inherent in the provision of tattoo and body piercing services that would be contrary to the public interest or injurious to nearby properties.

**2. Will not enlarge or encourage the development of a skid row or blighted area.**

See response to #1, above.

Because Oceanside Tattoo will be providing tenancy in a downtown building and area that has struggled in recent years to attract consistent local and visitor serving tenants, Oceanside Tattoo will actually assist in avoiding blight or the development of a skid row.

**3. Will not be contrary to nor adversely affect any program of redevelopment or neighborhood conservation.**

The Oceanside Tattoo proposal has support of Main Street Oceanside and the Oceanside Chamber of Commerce and is consistent with the Article 12 of the Redevelopment Zoning Ordinance, Planning Subdistrict 1 purpose and intent. No program of redevelopment or neighborhood conservation effort has been identified that would be negatively impacted by Oceanside Tattoo.

**4. (In connection with a requested waiver of Section 3604 (b) only) That notice was given to all property owners within 200 feet of the proposed location and said owners were given an opportunity to be heard.**

Notice has been given.

**5. The waiver will not adversely affect land values or the integrity of the underlying district.**

See above.

**6. The conditional use permit findings support the granting of the waiver.**

See above and below.

The regulated uses within 1000 feet of the project include:

Address	Business Name	Regulated Use Type
211 N. Cleveland Street	Apotheque Spa	L - Massage/Acupuncture/Spa
301 Pier View Way	Pierview Pub	F - Bars and Cocktail Lounges
218 N. Cleveland Street	Pier View Market & Spirits	K - Liquor Store
207 N. Tremont St.	The Haunted Head Saloon	F - Bars and Cocktail Lounges
406 Pier View Way	Fire Water Saloon	F - Bars and Cocktail Lounges
311 N. Tremont St.	Tremont Street Sports Bar	F - Bars and Cocktail Lounges
401 N. Coast Highway; Suite C & D	Ocean Village Massage	L - Massage/Acupuncture/Spa
420 N. Coast Highway	Circle K Beer/Wine	K - Liquor Store/Convenience
102 N. Coast Highway	Quik Corner	K - Liquor Store/Convenience
215 N. Coast Highway	Formerly: Murphy's Law; currently closed, pending new tenant	F - Bars and Cocktail Lounges
115 N. Ditmar Ave.	Refresh @ Ici Spa and Massage	L - Massage/Acupuncture/Spa
701 Seagaze Dr. #B	Acupuncture and Massage of Oceanside (currently looks closed)	L - Massage/Acupuncture/Spa

There are no other Tattoo Establishments within 1000 feet of the project.

***(b) The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.***

The project would be operated and maintained under the same conditions as those for the current 3753 Mission Avenue location. As Applicants intend to move this business location rather than open a new tattoo parlor, the total number of tattoo parlors would not exceed the Municipal Code section §33.6.4 restriction on the number of tattoo parlors within the City. The project will be in compliance with the general regulations applicable to tattoo parlors and will keep a copy of Chapter 33 of the Municipal Code posted in a conspicuous place. (Municipal Code §§ 33.7, 33.8).

Since purchasing and operating the tattoo parlor at 3753 Mission Avenue in November 2013, the project Applicants have upheld their high standard of service and community responsibility. This level of high quality service will translate to a prosperous downtown business.

***(c) That the proposed conditional use will comply with the provisions of this ordinance, including any specific condition required for the proposed conditional use in the district in which it would be located.***

The project is consistent with the Subdistrict zoning and the LCP zoning (General commercial). In compliance with section 3605, the project meets the objective requirements for the locational waiver. (Redevelopment Zoning Ordinance §3605).

Sincerely,

COAST LAW GROUP LLP



MARCO A. GONZALEZ

# Oceanside Tattoo Operations and Management Plan

## Generally

The City of Oceanside has prescribed in Chapter 33 of its Code of Ordinances various regulations pertaining to Tattooing Establishments. To the extent such regulations are constitutionally valid, Oceanside Tattoo views these regulations as minimum operational requirements to be followed at all times.

## Hours of Operation

Posted hours of operation will typically be from 10:00 a.m. to 10:00 p.m. daily.

However, during the slower winter days, mid-week hours will likely be cut Monday through Thursday to close at 8:00 p.m.

## Signage

The external signage will consist of a painted wood sign illuminated from above by shielded brass lights. Both the sign and the light fixtures will be maintained to ensure no chipping of paint or faulty bulbs. Signage will comply with City of Oceanside sign design standards.

The following images reflect the expected size and placement of external signage:



Internal signage: Inside the facility, signs/notices will be conspicuous and tasteful. Notices to be displayed include:

1. Age/Condition restrictions: Only individuals with current valid identification showing they are over 18 years of age will be tattooed. No tattoos allowed on any minor, even with notarized parental consent. No customer will be tattooed who is, or appears to be, under the influence of alcohol or any substance that would impair judgment.
2. Bloodborne Pathogens Exposure Control (BPEC): Every tattoo artist will prominently display in his/her booth an original copy of a current BPEC training class certification.
3. Business License and County of San Diego DEH Health Permit will be displayed and visible in proximity to the front counter of the business.



### **Client Disclosures**

All Release Forms are kept in a locked safe offsite for four years, as is required by the Health Department.

### **Public Health**

In 2011 the State of California passed the Safe Body Art Act prescribing a uniform set of standards for the body art industry to protect the health and safety of body art practitioners, their customers, and the public. Body art practitioners are those who perform tattoo, piercing, permanent cosmetics and branding on a person's skin. They are required to receive annual training in bloodborne pathogen standards annually to ensure they know how to prevent transmission of blood-borne diseases; they also must perform these procedures in approved Body Art facilities that have a valid health permit and are inspected by Environmental Health Specialists of the Department of Environmental Health.

Oceanside Tattoo and every artist who works there, whether such artist is an employee, independent contractor, or visiting artist, must strictly comply with the requirements of prescribed by the Department of Environmental Health to comply with the Safe Body Art Act. Bloodborne Pathogens Training Certificates will be displayed prominently whenever and wherever an artist is working on a customer.

### **Staff Training and Best Practices**

In addition to County requires detailed above, Oceanside Tattoo requires that every artist in its facility have no less than 10 years of experience in reputable facilities. When any artist is hired, he/she undergoes a 90 day period of evaluation and additional training by Oceanside Tattoo owner/operator Jason Betz to ensure compliance with legally mandated best management practices, as well as to familiarize the artist with additional cleanliness and customer service requirements of Oceanside Tattoo.

Each tattoo artist owns his/her own equipment. Upon hiring, each piece of equipment is reviewed by Mr. Betz for quality control purposes. Oceanside Tattoo provides all sterilization equipment and requires each piece used for each customer to be sterilized unless it is a disposable component. A steam autoclave is available and functioning at all times onsite.

All ink used is vegan friendly, sterilized, and of the highest quality available to ensure customer safety.

A non-tattooing artist is onsite as a store manager at all times. To ensure artists are not interrupted while tattooing, and to minimize opportunity for contamination, the store manager is tasked with all initial client screening and paperwork, fee processing, answering phones, and generally ensuring customer service and satisfaction.

### **Customer Care**

In addition to disclosures contained in the waiver and release, customers are advised in basic aftercare and provided guidelines including cleaning, sterilization, avoidance of extended

contact with water and sunlight, and long term care.

This tattoo aftercare information, as well as discussion educating members of the public regarding how to select a professional tattoo artist, will also be made available to customers and the public via the Oceanside Tattoo website.

### **Museum Exhibits**

Museum exhibits will be on display in the lobby of Oceanside Tattoo throughout the year. Installations will be behind glass in frames or shadowboxes, and will be rotated several times per year. Oceanside Tattoo intends to establish a non-profit organization to facilitate the museum component of the shop, as well as to enhance opportunities to educate the public on tattoo history and culture.

### **Parking**

There is no assigned parking for any business in the building housing Oceanside Tattoo.

## **Article 36 Separation of Regulated Uses**

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### Sections:

3601	Statement of Purpose
3602	Regulated Uses
3603	Definitions
3604	Locational Requirement
3605	Waiver
3606	Applicability of Other Regulations
3607	Severance Clause

### **3601 Statement of Purpose**

In the development and execution of this ordinance it is recognized that there are some uses which, because of certain factors such as nature of operation, type of clientele, and hours of operation, create conditions harmful to the public health, welfare, and safety when such uses are allowed to become numerous or concentrated within a limited geographical area, or when such uses exist near residential neighborhoods. Special regulations separating such uses from each other and from nearby residential areas are therefore necessary to protect the community from consequent blight, depreciated property values, law enforcement problems, and interference with residential neighborhoods.

Those uses listed in Section 3602 shall require a use permit issued in accord with Article 41, with the exception that the City Council or Community Development Commission shall have the final authority to approve or disapprove the use permit.

### **3602 Regulated Uses**

The uses subject to the application of this article are as follows:

- A. Adult Bookstores
- B. Adult Entertainment Business
- C. Adult Motion Picture Theaters
- D. Adult Theaters
- E. Arcades
- F. Bars and Cocktail
- G. Bath Houses
- H. Dance Establishments
- I. Escort Services
- J. Figure Studios

- K. Liquor Stores
- L. Massage Establishments
- M. Peep-Show Establishments
- N. Pool Rooms, Billiard Rooms, and Shooting Galleries
- O. Tattoo Establishments

### 3603 Definitions

Words and phrases used in this article shall mean the following:

- A. Adult Bookstore. An establishment which has: (1) a substantial or significant portion of its stock in trade, books, magazines, and other periodicals that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Specified Anatomical Areas"; (2) a substantial or significant portion of its stock in trade, instruments, devices or paraphernalia designed for use in connection with "Specified Sexual Activities"; or (3) a segment or section devoted to the sale or display of such adult-oriented materials.
- B. Adult Entertainment Business. Any establishment that (1) is customarily only open to adults and excludes minors by reason of age, or (2) devotes a substantial or significant portion of its stock in trade to the sale or display of instruments, devices, or paraphernalia which are designed for use in connection with "Specified Sexual Activities."
- C. Adult Motion Picture Theater. An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons therein.
- D. Adult Theater. A theater, concert hall, auditorium, or other similar establishment, either indoor or outdoor in nature, which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.
- E. Arcade. Any place having five or more coin-operated, slug-operated, or any type of amusement or entertainment machines for which payment is necessary for operation. These include, but are not limited to, peep-show devices, pinball machines and video games, but do not include merchandise vending machines or mini-jukeboxes.

- F. Bars and Cocktail Lounges. Any premises designed, used or intended to be used for the selling or serving of alcoholic beverages to the public for consumption on the premises, and in which food is not sold or served to the public as in a bona fide restaurant.
- G. Dance Establishment. Any premises wherein a public dance, as defined in Chapter 10 of the Oceanside City Code, is held.
- H. Escort Services. Any premises where patrons can purchase the social company or companionship of another person.
- I. Figure Studio. Any premises on which there is conducted the business of furnishing nude models who pose for the purpose of being photographed, sketched, painted, drawn or observed by persons who pay fee, or other consideration or compensation, or a gratuity, for the right or opportunity to depict or observe the model, or for admission to, or for permission to remain upon, or as a condition for remaining upon, the premises.
  - 1. Any person, male or female, who poses nude to be photographed, sketched, painted drawn or observed.
  - 2. Nude shall include:
    - a. Completely without clothing;
    - b. With any pubic area exposed, or with the pubic area covered in such a manner that the private parts are visible or the form thereof discernible;
    - c. With the breasts exposed by female so that the nipples thereof are exposed.
- J. Liquor Store. A place or business engaged in the primary business of off-sale alcoholic beverages. For the purposes of this ordinance, primary business shall mean 25 percent or more of the shelf area of a business.
- K. Massage Establishment. Massage Establishment is defined in Chapter 15 of the Oceanside City Code.
- L. Peep-Show Establishment. Peep-Show Establishment is defined in Chapter 7 of the Oceanside City Code.

M. Pool Rooms, Billiard Rooms, and Shooting Galleries. Pool rooms, billiard rooms, and shooting galleries are defined in Chapter 26 of the Oceanside City Code.

N. Regulated Use shall mean any use listed in Section 3602.

O. Specified Sexual Activities. Defined as:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse, or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

P. Specified Anatomical Areas: Defined as:

1. Less than completely and opaquely covered: (a) human genitals, pubic region; (b) buttock; and (c) female breast below a point immediately of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

R. The definitions appearing in Article 3 of this ordinance shall apply to any terms used but not defined in this section.

#### **3604 Locational Requirements**

It shall be unlawful for any regulated use to be located: (a) closer than 1,000 feet to any other regulated use; or (b) to be closer than 200 feet to any R district.

Distances between uses shall be measured between the nearest exterior walls or such uses or proposed uses along the shortest route intended and available for public traverse between said uses. The distance between a regulated use and an R district shall be measured between the nearest exterior wall of the use, and the nearest lot line included within the R district, along a straight line extended between the two points.

### 3605 Waiver

A. Application for Waiver. Application for waiver of the requirements of Section 3604 may be filed with the Secretary of the Planning Commission or Community Development Commission, who shall then set the matter for public hearing before the Planning Commission or Community Development Commission providing at least 10 days written notice of such hearing to owners and occupants of all property lying within all applicable distances relating to the spacing requirement from which waiver is sought. The Planning Commission or Community Development Commission shall make a recommendation to the City Council concerning the waiver application. In considering the application, the recommendation of the Planning Commission or Community Development Commission and the decision of the City Council shall depend upon whether it is found that the proposed use:

1. Will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this ordinance will be observed;
2. Will not enlarge or encourage the development of a skid row or blighted area;
3. Will not be contrary to nor adversely affect any program of redevelopment or neighborhood conservation;
4. (In connection with a requested waiver of Section 3604 [b] only) That notice was given to all property owners within 200 feet of the proposed location and said owners were given an opportunity to be heard;
5. The waiver will not adversely affect land values or the integrity of the underlying district;
6. The conditional use permit findings support the granting of the waiver.

B. First Amendment Application. When the subject of an application for a locational waiver is protected by the First Amendment of the United States Constitution:

1. Only the defined, objective guidelines and standards of this ordinance shall apply;

2. No general health, safety, and welfare requirements shall apply;
3. The findings and/or requirements of Section 3605 (a) shall not apply; the requirements and/or findings permitted under this ordinance which may not be constitutionally applied shall be severed from the requirements which may be constitutionally applied and those applicable shall remain in full force and effect.

#### **3606 Applicability of Other Regulations**

The provisions of this article are not intended to provide exclusive regulation of the regulated uses. Such uses must comply with any and all applicable regulations imposed in other articles of this zoning ordinance, other city ordinances, and state and federal law.

#### **3607 Severance Clause**

If any section, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this ordinance, or the ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of such section, sentence, clause or phrase.



November 5, 2014

To Whom it May Concern:

The Oceanside Chamber of Commerce is pleased to support Oceanside residents Jason and Melissa Betz, owners and operators of Oceanside Tattoo Co., in their plans to expand their business into Artists Alley in downtown Oceanside.

Oceanside has placed a great emphasis in recent years in promoting our downtown area as a center for arts and culture. With the Betz family's 20 years of experience in the tattoo industry, we feel that this business is a great fit for Artists Alley, and will help create a positive synergy that will benefit their neighboring businesses.

The Chamber has placed an emphasis on promoting the history of our great city; and we are very pleased to learn that Oceanside Tattoo Co. is planning an historical tattoo exhibit to showcase Oceanside's tattoo history.

Jason and Melissa opened their first business in Oceanside in 2003 and have been good citizens of our community for many years. We are excited that they are expanding their presence into downtown Oceanside and look forward to seeing their business grow. We are confident that Oceanside Tattoo Co. will be a positive addition to our downtown area for many years to come.

Sincerely,

David L. Nydegger, President and CEO  
Oceanside Chamber of Commerce

ATTACHMENT 4

928 North Coast Highway • Oceanside, California 92054

phone (760) 722-1534 • fax (760) 722-8336 • [www.oceansidechamber.com](http://www.oceansidechamber.com)



Monday, December 21, 2014

**Subject: Letter of Support**

To Whom It May Concern:

On behalf of MainStreet Oceanside Board of Directors, this letter is to support Frontline Tattoo owners Jason and Melissa Betz to move their business license to Downtown Oceanside located at 212 N. Coast Highway.

Frontline Tattoo's community involvement has been extremely positive and continues to show passion to improve our community for the betterment. The tattoo industry is becoming more mainstream than before. This type of business will give our locals and tourists another experience when they visit our downtown district.

If you have any questions regarding the letter of support, please contact Rick Wright at (760) 754-4512.

Warmest regards,

A handwritten signature in black ink that reads "Rick Wright".

Rick Wright  
Executive Director

MainStreet Oceanside  
701 Mission Avenue, Oceanside, CA 92054  
P. (760) 754-4512 ~ F. (760) 754-4547  
[www.mainstreetoceanside.com](http://www.mainstreetoceanside.com)

**ATTACHMENT 5**

## 200 foot radius maps

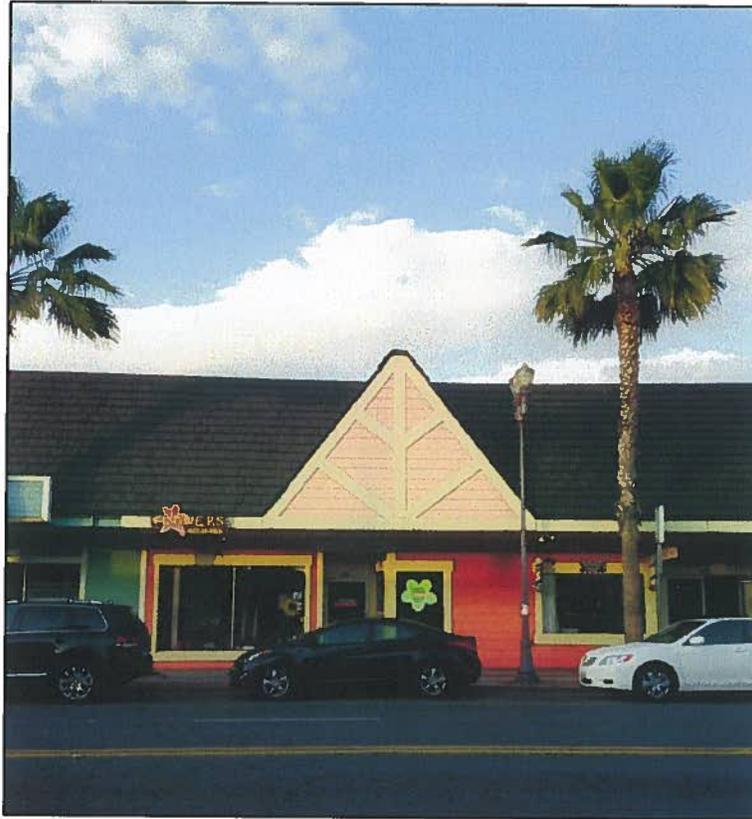
Redevelopment Project Area		
<ol style="list-style-type: none"> <li>1. Commercial Retail and Office / Residential possible</li> <li>1A. Commercial Retail and Office / Historic / Residential possible</li> <li>2. Financial Center / Office Professional</li> <li>3. Office Professional / Residential possible (SF &amp; Multi)</li> <li>4A. Transient Uses &amp; Residential (SF &amp; Multi)</li> <li>4B. Transient Uses &amp; Residential (Multi)</li> <li>5. High Density Residential (SF &amp; Multi)</li> </ol>	<ol style="list-style-type: none"> <li>5A. Medium Density Residential</li> <li>6A. Visitor Serving Commercial</li> <li>6B. Visitor Serving Commercial / Residential possible</li> <li>7A. High Density Residential (SF &amp; Multi)</li> <li>7B. Recreational / Commercial / Residential (SF &amp; Multi)</li> <li>8A. Hospital &amp; Medical (SF)</li> <li>8B. Hospital / Medical / Office / Residential possible (SF &amp; Multi)</li> </ol>	<ol style="list-style-type: none"> <li>9. Commercial / Residential / SF &amp; Multi (30,000 sq. ft.)</li> <li>10. Open Space</li> <li>11. Commercial / Residential possible / (Multi with mixed use)</li> <li>12. Tourist &amp; Visitor Serving Commercial</li> <li>13. Visitor Serving Commercial / Office / Residential (Multi with mixed use)</li> <li>14. Public Transportation and Railroad</li> <li>15. Public Facilities, Parks, Open Space</li> </ol>



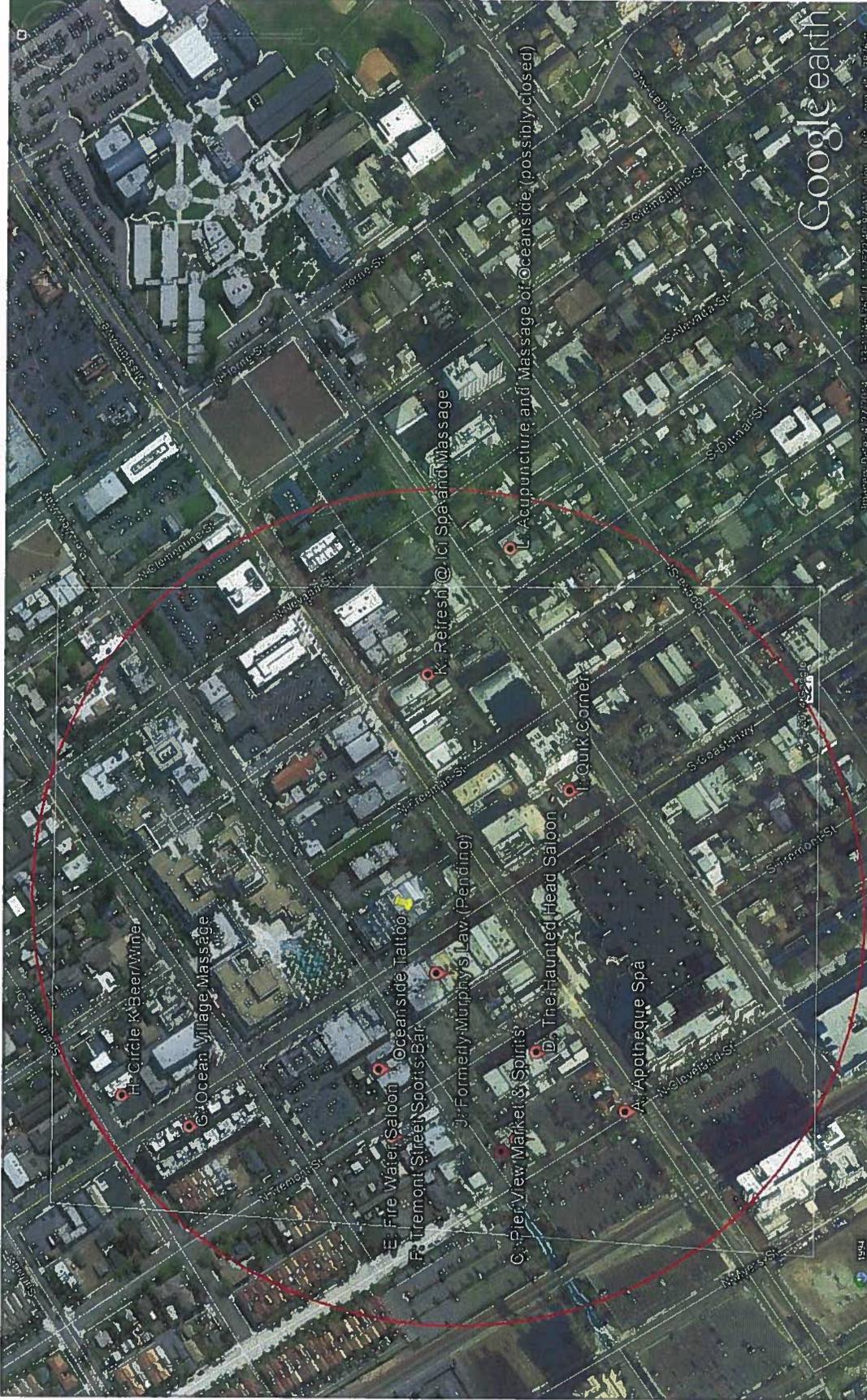
1: Commercial and Office / Residential possible; 2. Financial Center/Office Professional; 3: Office Professional / Residential possible (SF & Multi)



Storefront Photos



**Regulated Uses – 1000 sq ft**



- A – Apotheque Spa, 211 N. Cleveland St. (L - Massage/Acupuncture/Spa)
- B – Pierview Pub, 301 Pier View Way (F - Bars and Cocktail Lounges)
- C – Pierview Market & Spirits, 218 N. Cleveland St. (K - Liquor Store)
- D – The Haunted Head Saloon, 207 N. Tremont St. (F - Bars and Cocktail Lounges)
- E – Fire Water Saloon, 406 Pier View Way (F - Bars and Cocktail Lounges)
- F – Tremont Street Sports Bar, 311 N. Tremont St. (F - Bars and Cocktail Lounges)
- G – Ocean Village Massage, 401 N. Coast Hwy, Ste C & D (L - Massage/Acupuncture/Spa)
- H – Circle K Beer/Wine, 420 N. Coast Highway (K - Liquor Store/Convenience)
- I – Quik Corner, 102 N. Coast Highway (K - Liquor Store/Convenience)
- J – Formerly Murphy's Law, new tenant pending, 215 N. Coast Hwy (F - Bars and Cocktail Lounges)
- K – Refresh @ Ici Spa and Massage, 115 N. Ditmar Ave. (L - Massage/Acupuncture/Spa)
- L – Acupuncture and Massage of Oceanside (appears closed), 701 Seagaze Dr. #B (L - Massage/Acupuncture/Spa)



